



भारत का राजपत्र

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No. 25] NEW DELHI, SATURDAY, JUNE 18, 1994/JYAIKTHA 28, 1916

इस भाग में भिन्न घट संख्या दी जाती है जिससे इक यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांघिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

कार्यालय लोक शिकायत तथा पेंशन मंत्रालय
(कार्यालय और प्रशिक्षण विभाग)

नई दिल्ली, 26 मई, 1994

का. अ. 1347.—केन्द्रीय सरकार दिल्ली विशेष पुनर्वापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केरल राज्य सरकार की सहमति से जो सं. 54920/3/91 गृह, पितृपतंत्रपुरम, नारीय 30-7-1993 द्वारा दी गई थी जैसा कि माननीय केरल उच्च न्यायालय ने 1988 के दांडिक प्रक्रीय मामला सं. 216 में तारीय 22-3-1990 के अद्वेश में निर्देश दिया था, केन्द्रीय जांच विभाग की अपराध शाखा के अपराध सं. 488/मी.आर./88 के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार मर्यादा केरल राज्य पर करती है।

[मंजुआ-228/60/93-ए. बी. श्री. (II)]

आर. एस. बिप्ट शब्दर सचिव

MINISTRY OF PERSONNEL, P.G. AND PENSIONS

(Department of Personnel & Training)

New Delhi, the 26th May, 1994

S.O. 1347.—In exercise of the powers conferred by Section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Kerala accorded vide No. 54920/D-3/91-Homa Thiruvananthapuram, dated 30th July, 1993 hereby extends the powers and jurisdiction of members of the Delhi Special Police Establishment to the whole State of Kerala for investigation of Crime No. 488/CR/88 of the Crime Branch CID of Kerala State as directed in the order dated 22nd March, 1990 of the Hon'ble High Court of Kerala in Cr. M.C. No. 216 of 1988.

[No. 228/60/93-AVD-II]
R. S. BISHT, Under Secy.

नई दिल्ली, 31 मई, 1994

का.अ. 1348.—केन्द्रीय सरकार, दंड प्रक्रिया सहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8)

द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए, सर्व श्री बी.एल. कालरा, अधिवक्ता, दिल्ली को विशेष लोक अभियोजक और कृष्ण कुमार को (कनिष्ठ अधिवक्ता के रूप में) रणजीत सिंह और अन्य के विरुद्ध दिल्ली विशेष पुलिस स्थापन द्वारा संस्थित मामला आर.सी. सं. 2/80 सी.आई.यू. (ए)/ श्री.बी.आई. के जो सैशन न्यायालय/दिल्ली विचारण न्यायालय में सम्भित है और दिल्ली संघ राज्य धर्म में विधि द्वारा स्थापित पुनरीक्षण है या अपील न्यायालयों में उसी मामले से उद्भूत अपीलों, पुनरीक्षण आवदनों या अन्य मामलों के अभियोजन के लिए नियुक्त करती है।

[संख्या 225/9/94-ए.बी.डी.-II]

आर. एस. बिष्ट, अवृत्त सचिव

New Delhi, the 31st May, 1994

S.O. 1348.—In exercise of the powers conferred by Sub-Section (8) of Section 24 of the Code of Criminal Procedure, 1974 (Act No. 2 of 1974), the Central Government hereby appoints S/Shri C. L. Kalra, Advocate, Delhi as Special Public Prosecutors and Krishna Kumar (as Junior Counsel) for conducting the prosecution of the case being RC. 2/80-CIU(A)/CBI instituted by the Delhi Special Police Establishment against Shri Ranjit Singh and others, pending in Session Court/Trial Court, Delhi and appeals, revisions or other matters arising out of the same case in revisional or appellate courts, established by the law in Union Territory of Delhi.

[No. 225/9/94-AV.D.II]
R. S. BISHT, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 18 मई, 1994

(आयकर)

का. आ. 1349.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 80-जी की उपधारा (2) के खंड (ख) द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एवं द्वारा “श्री बैंकटेक्स्टर बन्दिर सोसाइटी, नई दिल्ली” को पूरे संघ मासित भेज दिल्ली में एक प्रतिष्ठित पूजा स्थल के नप में उक्त खंड के प्रयोजनार्थ अधिसूचित करती है।

[अधिसूचना सं. 9545 फा. सं. 176/31/93 आयकर नि-1]

शरत धन्द्र अवृत्त सचिव

MINISTRY OF FINANCE

(Department of Revenue)

(INCOME-TAX)

New Delhi, the 18th May, 1994

S.O. 1349.—In exercise of the powers conferred by clause (b) of sub-section (2) of Section 80C of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Sri Venkateswara Mandir Society, New Delhi” to be a place of Public Worship of renown throughout the Union territory of Delhi for the purpose of the said clause.

[Notification No. 9545/F. No. 176/31/93-ITA-I]
SHARAT CHANDRA, Under Secy.

आदेश

नई दिल्ली, 30 मई, 1994

का. आ. 1350.—भारत सरकार के तंयुक्त सचिव ने, जिसे विदेशी मुद्रा भंगण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से संशक्त किया गया है, उक्त उपधारा के अधीन आदेश का. सं. 673/131/93-सी.ए.गु.-8 दिनांक 22-12-93 को यह निदेश जारी किया था कि श्री मोहन्सिंह उर्फ पप्तू, एच-उदी (भूतल), विनिता सी. एच. एस., चरतसिंह कालोनी रोड, चकला, बम्बई को निरुद्ध कर लिया जाए और केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे ऐसा कोई भी कार्य करने से रोका जा सके जो विदेशी मुद्रा के भंगण के लिए हानिकारक हो।

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रखा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुनिम आयुक्त, बम्बई के समक्ष हाजिर हों।

[फा. सं. 673/131/93-सी.ए.गु.-8]

रूप धन्द्र, अवृत्त सचिव

ORDER

New Delhi, the 30th May, 1994

S.O. 1350.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of

section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/131/93-Cus. VIII dated 22nd December, 1993 under the said sub-section directing that Shri Mohinder Singh @ Pappu, H-3-B, Ground Floor, Veenitha C.H.S. Charal Singh Colony-Road, Chakia, Bombay be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from indulging in activities prejudicial to the Conservation of Foreign Exchange resources in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/131/93-Cus. VIII]
ROOP CHAND, Under Secy.

आदेश

नई दिल्ली, 30 मई, 1994

का. आ. 1351.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का. सं. 673/133/93-सी. शु.-8 दिनांक 4-1-94 को यह निदेश जारी किया था कि श्रीमति नीलम चन्द्रकान्त मोरे उर्फ नेहा सुरेण साथंत 1/4 रायगढ़ निवास डी. एल. दत्ताराम रोड, कालानौकी, बम्बई-400033 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे ऐसा कोई भी कार्य करने से रोका जा सके जो विदेशी मुद्रा के संरक्षण के लिए हानिकारक हो।

2. केन्द्रीय सरकार के पास यह विष्यास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हों।

[फा. सं. 673/133/93-सी. शु.-8]
रूप चन्द, अवर सचिव

ORDER

New Delhi, the 30th May, 1994

S.O. 1351.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of

section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/133/93-Cus. VIII dated 4th January, 1994 under the said sub-section directing that Smt. Neelam Chandrakant More @ Smt. Neha Suresh Sawant, W/o Shri Chandrakant More, 1/4, Raigarh Niwas, D. L. Dataram Road, Kalachowki, Bombay-400033 be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from indulging in activities prejudicial to the Conservation of Foreign Exchange resources in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/133/93-Cus. VIII]
ROOP CHAND, Under Secy.

आदेश

नई दिल्ली, 30 मई, 1994

का. आ. 1352.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश का. सं. 673/144/93-सी. शु.-8 दिनांक 4-1-94 को यह निदेश जारी किया था कि श्री रमेश जठमल बाफना कमरान. 22, प्रथम मंजिल, बिल्डिंग नं. 62, 10वीं लेन कामाथीपुरा, बम्बई-400008 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार बम्बई में अभिरक्षा में रखा जाए ताकि उसे ऐसा कोई भी कार्य करने से रोका जा सके जो विदेशी मुद्रा के संवर्धन के लिए हानिकारक हो।

2. केन्द्रीय सरकार के पास यह विष्यास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बम्बई के समक्ष हाजिर हों।

[फा. सं. 673/144/93-सी. शु.-8]
रूप चन्द, अवर सचिव

ORDER

New Delhi, the 30th May, 1994

S.O. 1352.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued order F. No. 673/144/93-Cus. VIII dated 4th January, 1994 under the said sub-section directing that Shri Ramesh Jethmal Bafna, Room No. 22, 1st Floor, Building No. 62, 10th Lane, Kamathipura, Bombay-400008 be detained and kept in custody in the Central Prison, Bombay with a view to preventing him from indulging in activities prejudicial to the Augmentation of Foreign Exchange resources in future.

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of the power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bombay within 7 days of the publication of this order in the official Gazette.

[F. No. 673/144/93-Cus. VIII]
ROOP CHAND, Under Secy.

के लिए भारतीय प्रतिभूति व्यापार निगम लिमिटेड को एक विशेष संस्था के रूप में अधिसूचित करती है।

[एफ. सं. 10(3)/आई. एफ.-I/94]
वी. पी. भारद्वाज, अवर सचिव

New Delhi, the 1st June, 1994

S.O. 1354.—In exercise of the powers conferred by clause (c) of sub-section (1) of section 9 of the Industrial Development Bank of India Act, 1964 (18 of 1964) the Central Government hereby notifies the Securities Trading Corporation of India Limited as a financial institution for the purposes of the aforesaid clause.

[F. No. 10(3)/IIF-I/94]
V. P. BHARDWAJ, Under Secy.

(राजस्व विभाग)

नई दिल्ली, 20 मई, 1994

ग्राहकर

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 1 जून, 1994

का. आ. 1353.—भारतीय औद्योगिक पुनर्निर्माण बैंक अधिनियम, 1984 (1984 का 62) की धारा 18 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, उक्त खण्ड के प्रयोजन के लिए भारतीय प्रतिभूति व्यापार निगम लिमिटेड को एक संस्था के रूप में अधिसूचित करता है।

[एफ. सं. 10(3)/आई. एफ.-I/94]
वी. पी. भारद्वाज, अवर सचिव

(Department of Economic Affairs)
(Banking Division)

New Delhi, the 1st June, 1994

S.O. 1353.—In exercise of the powers conferred by clause (c) of sub-section (1) of section 18 of the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984) the Central Government hereby notifies the Securities Trading Corporation of India Limited as an institution for the purposes of the aforesaid clause.

[F. No. 10(3), IIF-I/94]
V. P. BHARDWAJ, Under Secy.

नई दिल्ली, 1 जून, 1994

का. आ. 1354.—भारतीय औद्योगिक विकास बैंक अधिनियम, 1964 (1964 का 18) की धारा 9 की उप-धारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा उक्त खण्ड के प्रयोजन

का. आ. 1355.—ग्राहकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा “श्री गणपति सचिवानन्द अवधूत दत्ता पीठ न्यास (आर.), भैसूर” को कर-निर्धारण वर्ष 1993-94 से 1995-96 तक के लिए निम्नलिखित शर्तों के अध्यवृत्त रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात्:—

- (i) कर-निर्धारिती इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है;
- (ii) कर-निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अर्थवा एक से अधिक छंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जेवर-जवाहिरात, फर्नीचर आदि) के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त नाम तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्राप्तिक नहीं हो तथा ऐसे कारोबार के संबंध में प्रलग से लेखा-पुस्तकाएं नहीं रखी जाती हों।

[अधिसूचना सं. 9548/(फा. सं. 197/16/94-ग्राहकर नि.-I)]
शरत चन्द्र, अवर सचिव

(Department of Revenue)

New Delhi, the 20th May, 1994

S.O. 1355.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Ganapati Sachchidananda Avadhoota Datta Peetha Trust (R), Mysore" for the purpose of the said sub-clause for the assessment years 1993-94 to 1995-96 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms of modes specified in sub-section (5) of Section 11;
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 9546/F. No. 197/16/94-ITA-1]

SHARAT CHANDRA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 23 मई, 1994

का.प्रा. 1356:—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 5.3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उत्तर अधिनियम की धारा 19 की उपधारा (2) के उपबंध यूनियन बैंक आफ इंडिया पर 12 फरवरी, 1996 तक की अवधि तक उस सीमा तक लागू नहीं होंगे जहाँ तक उनका संबंध बनारस स्टेट बैंक लि., के शरणों की उसकी धारिता से है।

[सं. 15/3/90-बी.ओ.-III]
के.के. मंगल, अवर सचिव

(Department of Economic Affairs)
(Banking Division)

New Delhi, the 23rd May, 1994

S.O. 1356.—In exercise of powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section 2 of section 19 of the said Act shall not apply to Union Bank of India upto 12 February, 1996 in respect of

its holding of shares of Benares State Bank Ltd., as pledgee.

[No. 15/3/90-B.O.III]

K. K. MANGAL, Under Secy.

नई दिल्ली, 27 मई, 1994

का.प्रा. 1357:—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उपधारा (6) और उप धारा (7) के साथ पठित उप धारा (1) के खण्ड (ड.) के उपखण्ड (iii) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, हमिक्ज एज़ ग्लासगो कन्सलटेन्ट्स प्रा. लि., गैमन हाऊस, सावरकर मार्ग, प्रभादेवी, बम्बई-400 025 प्रबंध निदेशक डा. अरुण नीलकंठ द्विविड़ को 27 मई, 1994 से तीन वर्ष की अवधि के लिए भारतीय निर्यात आयात बैंक के निदेशक मंडल में निदेशक के रूप में नामित करती है।

[फा.सं. 7/5/93-बी.ओ.-I]
के.के. मंगल, अवर सचिव

New Delhi the 27th May, 1994

S.O. 1357.—In pursuance of sub-rule (iii) of clause (e) of sub-section (1) read with sub-section (6) and sub-section (7) of section 6 of the Export-Import Bank of India Act, 1981 (28 of 1981), the Central Government hereby nominates Dr. Arun Nilkanth Dravid, Managing Director, Humphreys & Glasgow Consultants Pvt. Ltd., Gammon House, Savarkar Marg, Prahabadevi, Bombay-400 025 as Director on the Board of Directors of the Export-Import Bank of India for a period of three years with effect from 27th May, 1994.

[F. No. 7/5/93--BO.I]
K. K. MANGAL, Under Secy.

नई दिल्ली, 2 जून, 1994

का.प्रा. 1358:—भारतीय औद्योगिक विकास बैंक अधिनियम, 1964 (1964 का 18) की धारा 6 की उप-धारा (1) के खण्ड (ग) के उपखण्ड (5) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा श्री राम प्रसाद गोयनका, "गोयनका निवास" 19, बेलवेडेयर रोड, ग्लॉपुर, कलकत्ता-700 027, को 2 जून, 1994 से तीन वर्ष की अवधि के लिए भारतीय औद्योगिक विकास बैंक के निदेशक रूप में नामित करती है।

[फा.सं. 7/4/93-बी.ओ.-I]
के.के. मंगल, अवर सचिव

New Delhi, the 2nd June, 1994

S.O.1358.—In pursuance of sub-rule (v) of clause (c) of sub-section (1) of Section 6 of the Industrial Development Bank of India Act, 1964 (18 of 1964), the Central Government hereby nominates Shri Rama Prasad Goenka, "Goenka Niwas", 19, Belvedere Road, Alipore, Calcutta-700 027 as the Director of the Industrial Development Bank of India for a period of three years from 2nd June, 1994.

[F. No. 7/4/93-M.O.I]

K. K. MANGAL, Under Secy.

नई दिल्ली, 2 जून, 1994

का. प्रा. 1359.—राष्ट्रीयकृत बैंक (प्रबध और प्रकीर्ण उपबंध) योजना, 1980 के खण्ड 3 के उपखण्ड (छ) के अनुसरण में केन्द्रीय सरकार, श्री के.के. चौधरी, संयुक्त

मुख्य अधिकारी, नये नोट प्रेस (परियोजना) भारतीय रिज़बैंक, गारमेन्ट हाऊस, वर्सी, बम्बई-18 को श्री श्री.एस. रामाचन्द्र राजू के स्थान पर एतद्वारा आनंदा बैंक के निदेशक के रूप में नियुक्त करती है।

[सं. 9/4/93-वी.ओ.-1]
के.के. मंगल, प्रबर सचिव

New Delhi, the 2nd June, 1994

S.O. 1359.—In pursuance of sub-clause (g) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provision) Scheme, 1980, the Central Government hereby appoints Sh. K.K. Chowdhary, Joint Chief Officer, New Note Press (Project), Reserve Bank of India, Garment House Worli, Bombay-18 as a Director of Andhra Bank vice Shri D. S. Ramachandra Raju.

[F. No. 9/4/93-BO.II]
K. K. MANGAL, Under Secy.

नागरिक पूर्ति, उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय

(नागरिक पूर्ति विभाग)

(भारतीय मानक व्यूरो)

नई दिल्ली, 20 मई, 1994

का. प्रा. 1360.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उपनियम (1) की खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिस/जिन भारतीय मानक/मानकों, का/के विवरण नीचे अनुसूची में दिया गया है/दिए गए हैं, वह/वे स्थापित हो गया है/हो गए हैं।

अनुसूची

ऋग स्थापित भारतीय मानक(कों) की संख्या वर्ष और स. शीर्षक

नए भारतीय मानक द्वारा अति-

स्थापित तिथि

क्रमित भारतीय मानक अथवा मानकों

यदि कोई हों, की स. ओर

वर्ष

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| 1. आई एस : 12992 (भाग 1) : 1993 सुरक्षा
मोबाइल बाल्ट ट्रिप्रिंग बाले—विशिष्टि भाग 1 छिजाइन | — | 31 अक्टूबर, 1993 |
| 2. आई एस 13145 : 1993 मसाले—नमूने लेने की पद्धति (पहला पुनरीक्षण) | आई एस 13145 : 1991 | 30 मित्तम्बर, 1993 |
| 3. आई एस 13288 (भाग 2)—1993 श्रेणी 1 माल धारक—विशिष्टि और परीक्षण भाग 2 ताप-धारक | आई एस 13288 (भाग 1) : 1992 | 28 फरवरी, 1993 |
| 4. आई एस 13358 (भाग 4) : 1993 सुग्रन्थित पोषणों की खेती—रीति सहिता भाग 4 मेन्था प्रवेनिस और मेन्थासिट्रेटा | — | 30 सितम्बर, 1993 |

(1)	(2)	(3)	(4)
5. आईएस 13360 (भाग 2 खंड 4) : 1993 प्लास्टिक परीक्षण पद्धतियाँ भाग 2 नमूना परीक्षण और नमूने की तैयारी खंड 4 नमूने की पांचिक परीक्षण तैयारी	—	31 अक्टूबर, 1993	
6. आईएस 13550 (भाग 3) : 1993 प्रसेक्षण और मूचना शब्दावली भाग 3 मूर्तीयप्रत्येक	—	31 अक्टूबर, 1993	
7. आईएस 13707 (भाग 2) : 1993 यूचना प्रक्रमण संकेतों के लिए पाठ्य संचारण में विश्वसनीय अंतरण भाग 2 प्रोटोकोल विशिष्ट	आईएस 13707 (भाग 2) : 1993	30 जून, 1993	
8. आईएस 13722 : 1993 इस्पात पेड़ ए और बी के लिए शैली 1, वाले मीटरी मूक्षम अंतराल वाली चूंछी सहित कटकोणीय डिवरियाँ	आईएस —	31 अगस्त, 1993	
9. आईएस 13731 (भाग 1) : 1993 मालधारक धारक उपस्कर आंकड़े विनियम (सी ई डी-ई एस) भाग 1 सामान्य संचारण सहित	—	31 अगस्त, 1993	
10. आईएस 13736 (भाग 3/खंड 0) : 1993 पर्यावरण श्रवस्थाओं का वर्गीकरण भाग 3 पर्यावरण पेरा मीटर और उनकी कठोरताओं के समूहों का वर्गीकरण खंड 9 परिचय	—	30 जून, 1993	
11. आईएस 13738 (भाग 2) : 1993 प्रत्येक पार्श्व 80 ट्रैकों पर 15916 एफ टी पी आर ए डी पर संशोधित बारंबारता मोड्यूलन रिकार्डिंग का उपयोग करते हुए 90 मि.मी. नम्बर हिस्क कार्टरिजों पर ढाटा विनियम भाग 2 ट्रैक कार्मेंट	—	31 अक्टूबर, 1993	
12. आईएस 13742 (भाग 1) : 1993 कार्बाइड टिप-दार एक नोंक वाले औजार भाग 1 सीधे खरादने वाले औजार (आईएस ओ 4) विशिष्ट	—	30 सितम्बर, 1993	
13. आईएस 13742 (भाग 4) : 1993 कार्बाइड टिपदार एक नोंक वाले औजार भाग 4 चीड़ा खरादन औजार (आईएस ओ 4) विशिष्ट	—	30 सितम्बर, 1993	
14. आईएस 13742 (भाग 5) : 1993 कार्बाइड टिपदार एक नोंक वाले औजार भाग 5 क्रेकिल प्रफलफ औजार (आईएस ओ 5)	—	30 सितम्बर, 1993	
15. आईएस 13742 (भाग 6) : 1993 कार्बाइड टिपदार एक नोंक वाले औजार भाग 6 क्रेकिल खरादन औजार (आईएस ओ 6)	—	30 सितम्बर, 1993	
16. आईएस 13742 (भाग 7) : 1993 कार्बाइड टिपदार एक नोंक वाले औजार भाग 7 पृथक्करण औजार (आईएस ओ 7)	—	31 अक्टूबर, 1993	

(1)	(2)	(3)	(4)
17.	आई एस 13742 (भाग 9) : 1993 कार्यालय टिपदार एक नोंक वाले औजार भाग 9 वेधन और प्रफलक औजार (आई एस ओ 9)	—	31 अक्टूबर, 1993
18.	आई एस 13753 : 1993 ई 10 % (पुप बी III) जल अवशोषण वाली डस्ट प्रैस्ड फिरेमिक टाइल्स विशिष्टि	—	31 जुलाई, 1993
19.	आई एस 13795 (भाग 1) : 1993 विशेष मिश्रधातु से सम्बन्धित पारिमाणिक शब्दावली भाग 1 मृदु चुम्बकीय सामग्री	—	31 अगस्त, 1993
20.	आई एस 13797 : 1993 तेल में मालिङ्डेनम डाई-सल्फाइड परिक्षेपण—विशिष्टि	—	31 अगस्त, 1993
21.	आई एस 13798 : 1993 रेल डिव्हों की बाहरी सतह पर रंग-रोगन करने के लिए पानियूरेकेन बेस नाइकिंग विशिष्टि	—	31 अगस्त, 1993
22.	आई एस 13808 (भाग 1) : 1993 बाहर रोगी विभाग (आ रो वि) एवं आपातकालीन सेवाओं के लिए गुणता प्रबन्ध प्रक्रिया—मार्गदर्शिका सिद्धांत भाग 1, 30 संसतरित अस्पताल तक	—	31 अगस्त, 1993
23.	आई एस 13823 : 1993 पेलेटीरण के मार्गदर्शी सिद्धांत—सामान्य जहाजी मान	—	30 सितम्बर, 1993
24.	आई एस 13826 (भाग 6) : 1993 विटुमैन अधारित नमदा परीक्षण पद्धतियों भाग 5 जल अवशोषण परीक्षण	—	30 सितम्बर, 1993
25.	आई एस 13826 (भाग 7) : 1993 विटुमैन अधारित नमदा—परीक्षण पद्धतियाँ भाग 7 योजक उंडा जात करना	—	31 अक्टूबर, 1993
26.	आई एस 13827 : 1993 मिट्टी के भवनों की भूकम्प प्रतिरोधिता में सुधार मार्गदर्शी सिद्धांत	—	31 अक्टूबर, 1993
27.	आई एस 13839 : 1993 इस्तात बनाने के लिए संज लोहा प्रत्यक्ष अपचयित लोहा (डी आर आई) फाइन्स एंट्रिकेट—विशिष्टि	—	31 अगस्त, 1993
28.	आई एस 13840 (भाग 2) : 1993 फैरोटाइनियम का रासायनिक विश्लेषण भाग 2 गुरुत्वमिति पद्धति द्वारा सीलीकाल जात करना	—	31 अक्टूबर, 1993
29.	आई एस 13840 (भाग 3) (1993 फैरोटाइनियम) का रासायनिक विश्लेषण भाग 3 कपर्फैरान) गुरुत्वमिति पद्धति द्वारा टाइटेनियम जात करना	—	30 सितम्बर, 1993
30.	आई एस 13842 : 1993 एम-यूरीडोनोलीन तकनीकी विशिष्टि	—	30 सितम्बर, 1993
31.	आई एस 13843 : 1993 ऐसीटाइनिट-3 जाइली-डाइल—विशिष्टि	—	30 सितम्बर, 1993

(1)	(2)	(3)	(4)
32. आई एस 13845 : 1993 फल और सब्जी उत्पाद—पानी में अविलोय अंश ज्ञात करना	—	—	31 अगस्त 1993
33. आई एस 13849 : 1993 मुवाहेय अमिन शामक शुष्क पाउडर टाइप (भंडारित दाब) —विशिष्टि	—	—	31 अक्टूबर 1993
34. आई एस 13851 : 1993 उपयोग से पूर्ण छके इसेक्युटोइ का संग्रहण और पुनः शृण्कन सिफारिश	—	—	30 सितम्बर 1993
35. आई एस 13855 : 1993 चाय-जल घुलनशील भस्म और जल—अघुलनशील भस्म ज्ञात करना	—	—	30 सितम्बर 1993
36. आई एस 13856 : 1993 चाय-जल-घुलनशील भस्म की ज्ञानीयता ज्ञात करना	—	—	31 अक्टूबर 1993
37. आई एस 13857 : 1993 चाय-प्रस्त्र-अघुलनशील भस्म ज्ञात करना	—	—	31 अगस्त 1993
38. आई एस 13859 : 1993 ठोस रूप में इंस्टेंट चाय-नमी अंश ज्ञात करना (103 डिग्री सेंटीग्रेड पर द्रव्यमान में शति)	—	—	30 सितम्बर 1993
39. आई एस 13860 : 1993 ठोस रूप में इंस्टेंट चाय-कुल भस्म ज्ञात करना	—	—	30 सितम्बर 1993
40. आई एस 13861 : 1993 ठोस जल में इंस्टेंट चाय नमूने देना	—	—	30 सितम्बर 1993
41. आई ए 13875 (भाग 2) : 1993 मापन और नियंत्रण के लिए अंकीय मापन उपकरण भाग 2 अनु-रूप मात्रा मापन के लिए उपकरण की परिभाषिक शब्दावली परीक्षण व आंकड़ा पत्र व्यौरे	—	—	30 सितम्बर 1993
42. आई एस 13875 (भाग 3) : 1993 मापन और नियंत्रण के लिए अंकीय मापने उपकरण भाग 3 अंकीय मापन के लिए उपकरणों की परिभाषिक शब्दावली परीक्षण आंकड़ा पत्र व्यौरे	—	—	30 सितम्बर 1993
43. आई एस 13885 : 1993 संज लोहे (डी आर आई) में गेर अम्बक्ट्स/आदग्ध ज्ञात करने की पद्धति	—	—	30 मिनम्बर 1993
44. आई एस 13887 : 1993 चिमटियां-लीवर युक्त तिरछा काटने वाली—विशिष्टि	—	—	31 अक्टूबर 1993
45. आई एस 13901 (भाग 2) : 1993 रंगीन टेली-विजन के लिए फेराइट संघटकों के आयाम भाग 2 यात्रन ग्राउटपुट ट्रांसफार्मरों के लिए कोर्स	—	—	31 अक्टूबर 1993
46. आई एस 13903 : 1993 मुङ्ग काटेक्ट लंस—प्रोक्षण	—	—	31 अक्टूबर 1993
47. आई एस 13935 : 1993 भवनों की सरस्मत तथा भू-कंपीय दृष्टि ने दृढ़ीकरण रीति संहिता	—	—	30 नवम्बर 1993
48. आई एस क्यूमी 390100 : 1993 सक्षमता अन-मोदन कार्यविधि के आधार पर मूल्यांकित गुणता के ज़िक्कित फिल्म प्रतिग्रेषक नेटवर्क की खंड विशिष्टि	—	—	30 सितम्बर 1993

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49. आई एस ब्यूसी 390100 : 1993 सभता अनु- मोदन कार्यविधि के आधार पर मूल्यांकित गुणता के ज़िक्रित फिल्म प्रतिरोधक नेटवर्क की खाली विवरण विशिष्ट मूल्यांकन स्तर “ई”	--		31 अगस्त 1993
50. आई एस ब्यूसी 420102 : 1993 खाली विवरण विशिष्ट प्रत्यक्षवाणित छनात्मक प्रदक्षिण फलन ताप- मान गुणांक थार्मिस्टर मूल्यांकन स्तर “ई”	--		31 अक्टूबर 1993
51. आई एस ब्यूसी 440001 : 1993 प्रत्यक्ष तापित छनात्मक पदक्रम फलन तापमान गुणांक थार्मिस्टर खाली विवरण विशिष्ट—मूल्यांकन स्तर “ई”	--		31 जून 1993

इन मानकों की प्रतियां भारतीय मानक व्यूसे, मानक भवन, 9 बहादुरगाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों अम्बई, कलकत्ता, चण्डीगढ़ तथा मद्रास और शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना और लिवेन्डम, गाजियाबाद तथा फरीदाबाद में विश्री हेतु उपलब्ध हैं।

[मं. के. प्र. वि./13 : 2]
एन. श्रीनिवासन, अपर महानिदेशक

MINISTRY OF FOOD AND CIVIL SUPPLIES
(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, the 20th May, 1994

S.O. 1360 . In pursuance of clause (b) of Sub-rule (1) of Rule 7 of the Bureau of Indian Standard Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard(s), particulars of which is/are given in the Schedule hereto annexed, has/have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. year and Title of the Indian Standard(s) Established	No. and year of the Indian Standard or Standards, if any, super- seded by the new Indian Standard	Date of Establishment
1	2	3	4
1.	IS 12992 (Part 1) : 1993 Safety relief valves—spring loaded—specification Part 1 Design	—	31 October 1993
2.	IS 13145 : 1993 Spices and condiments—methods of sampling (First Revision)	IS 13145 : 1991	30 September 1993
3.	IS 13288 (Part 2) : 1993 Series 1 Freight containers—specification and testing Part 2 Thermal containers	IS 13288 (Part 2) : 1992	28 February 1993

1	2	3	4
4. IS 13358 (Part 4) : 1993 Code of practice for cultivation of aromatic plants Part 4 <i>Mentha Arvensis</i> (Japanese Mint) and <i>Mentha Citrata</i> (Bergamot-Mint)	IS	--	30 September 1993
5. IS 13360 (Part 2/Sec 4) : 1993 Plastics—Methods of testing Part 2 sampling and preparation of test specimens Section 4 Preparation of test specimens by machining		--	31 October 1993
6. IS 13550 (Part 3) : 1993 Documentation and information—vocabulary Part 3 Iconic Documents		--	31 October 1993
7. IS 13707 (Part 2) : 1993 Reliable transfer in text communication for information processing systems Part 2 Protocol specification	IS 13707 (Part 2) : 1993		30 June 1993
8. IS 13722 : 1993 Hexagon nuts, Style 1, with metric fine pitch thread—product grade A and B		--	31 August 1993
9. IS 13731 (Part 1) : 1993 Freight containers—container equipment data exchange (<i>Cedex</i>) Part 1 General Communication Codes		--	31 August 1993
10. IS 13736 (Part 3/Sec 0) : 1993 Classification of Environmental conditions Part 3 Classification of groups of environmental parameters and their severities Section 0 Introduction		--	30 June 1993
11. IS 13738 (Part 2) : 1993 Information processing systems—data interchange on 90 mm Flexible disk cartridges using modified frequency modulation recording at 15916 fptrad. on 80 tracks on each side Part 2 track format		--	31 October 1993
12. IS 13742 (Part 1) : 1993 Carbide tipped single point tools—ISO Series Part 1 straight turning tool (ISO 1)—specification		--	30 September 1993
13. IS 13742 (Part 4) : 1993 Carbide tipped single point tools—ISO Series Part 4 broad turning tool (ISO 4)—specification		--	30 September 1993
14. IS 13742 (Part 5) : 1993 Carbide tipped single point tools—ISO Series Part 5 cranked facing tool (ISO 5)—specification		--	30 September 1993
15. IS 13742 (Part 6) : 1993 Carbide tipped single point tools—ISO Series Part 6 cranked turning tool (ISO 6)—specification		--	30 September 1993
16. IS 13742 (Part 7) : 1993 Carbide tipped single point tools—ISO Series Part 7 parting off tool (ISO 7)—specification		--	31 October 1993
17. IS 13742 (Part 9) : 1993 Carbide tipped single point tools—ISO Series Part 9 boring tool (ISO 9)—specification		--	31 October 1993
18. IS 13753 : 1993 Dust-pressed ceramic tiles with water absorption of E7—10% (Group B III)—specification		--	31 July 1993

1	2	3	4
19.	IS 13795 (Part 1) : 1993 Glossary of terms relating to special alloys Part 1 soft magnetic materials	—	31 August 1993
20.	IS 13797 : 1993 Molybdenum disulphide dispersion in oil—specification	—	31 August 1993
21.	IS 13798 : 1993 Polyurethane base knifing filler (Two pack) for exterior painting of railway coaches—specification	—	31 August 1993
22.	IS 13808 (Part 1) : 1993 Quality management procedures for outpatient department (OPD) and emergency services—guidelines Part 1 up to 30-bedded hospitals	—	31 August 1993
23.	IS 13823 : 1993 Guidelines for palletization—general cargo	—	30 September 1993
24.	IS 13826 (Part 6) : 1993 Bitumen based felts—methods of test Part 6 water absorption test	—	30 September 1993
25.	IS 13826 (Part 7) : 1993 Bitumen based felt—methods of test Part 7 Determination of binder test	—	31 October 1993
26.	IS 13827 : 1993 Improving earthquake resistance of earthen buildings—guidelines	—	31 October 1993
27.	IS 13839 : 1993 Sponge Iron/DRI Fines/Briquettes for steel making—specification	—	31 August 1993
28.	IS 13840 (Part 2) : 1993 Chemical analysis of ferrotitanium Part 2 Determination of silicon by gravimetric methods	—	31 October 1993
29.	IS 13840 (Part 3) : 1993 Chemical analysis of ferrotitanium Part 3 Determination of titanium by cupferron (Gravimetric) Method	—	30 September 1993
30.	IS 13842 : 1993 m-Urcidoaniline, technical—specification	—	30 September 1993
31.	IS 13843 : 1993 Acetoacet-3-XYLIDIDE—specification	—	30 September 1993
32.	IS 13845 : 1993 Fruit and vegetable products—determination of water-insoluble solids content	—	31 August 1993
33.	IS 13849 : 1993 Portable fire extinguisher, Dry power type (Stored pressure)—specification	—	31 October 1993
34.	IS 13851 : 1993 Storage and redrying of covered electrodes before use—recommendations	—	30 September 1993
35.	IS 13855 : 1993 Tea—determination of water-soluble ash and water-insoluble ash	—	30 September 1993
36.	IS 13856 : 1993 Tea—determination of alkalinity of water-soluble ash	—	31 October 1993

1	2	3	4
37.	IS 13857 : 1993 Tea—Determination of acid-insoluble ash	—	31 August 1993
38.	IS 13859 : 1993 Instant tea in solid form—determination of moisture content (Loss in mass at 103 C)	—	30 September 1993
39.	IS 13860 : 1993 Instant tea in solid form—determination of total ash	—	30 September 1993
40.	IS 13861 : 1993 Instant tea in solid form—sampling	—	30 September 1993
41.	IS 13875 (Part 2) : 1993 Digital measuring instruments for measurement and control Part 2 terms, test and data sheet details of instruments for measuring analog quantities	—	30 September 1993
42.	IS 13875 (Part 3) : 1993 Digital measuring instruments for measurement and control Part 3 terms, test and data sheet details of instruments for measuring digital quantities	—	30 September 1993
43.	IS 13885 : 1993 Non-magnetics/char in sponge Iron (DRI)—methods of determination	—	30 September 1993
44.	IS 13887 : 1993 Nippers—lever assisted—diagonal cutting—specification	—	31 October 1993
45.	IS 13901 (Part 2) : 1993 Dimensions of ferrite components for CTV Part 2 cores for line output transformers	—	31 October 1993
46.	IS 13903 : 1993 Soft contact lenses—requirements	—	31 October 1993
47.	IS 13935 : 1993 Repair and seismic strengthening of building—guidelines	—	30 November 1993
48.	IS QC 390100 : 1993 Fixed film resistor networks for use in electronic equipment—sectional specification for film resistor network of assessed quality on the basis of the capability approval procedure	—	30 September 1993
49.	IS QC 390101 : 1993 Fixed film resistor networks for use in electronic equipment blank detail specification for film resistor networks of assessed quality on the basis of the capability approval procedure—assessment level	—	31 August 1993
50.	IS QC 420102 : 1993 Varistors for use in electronic equipment—blank detail specification for zinc oxide surge suppression varistors—assessment level E	—	31 October 1993
51.	IS QC 440001 : 1993 Directly heated positive step function temperature coefficient thermistors—blank details specification—assessment level E	—	31 July 1993

Copies of these Indian Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Calcutta, Chandigarh, Madras, Bombay and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Faridabad, Ghaziabad, Guwahati, Hyderabad, Jaipur, Kanpur, Lucknow, Patna, Thiruvananthapuram.

नई दिल्ली, 20 मई, 1994

का.आ. 1361 :—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) की बांड (ख) के अनुसरण में भारतीय मानक ब्यूरो एवंद्रारा अधिसूचित करता है कि जिस/जिन भारतीय मानक/मानकों, का./के विवरण नीचे अनुसूची में दिया गया है/दिए गए हैं, वह/वे स्थापित हो गया है/हो गए हैं।

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नए भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हों, की सं। और वर्ष	स्थापित तिथि
1	2	3	4
1.	आईएस : 302-2-4 (1993) घरेलू और समान विद्युत साधितों की सुरक्षा भाग 2 विशेष अपेक्षाएं खंड 4 चक्रण नियन्त्रक	—	31-10-1993
2.	आईएस : 302-2-9 (1993) घरेलू और समान विद्युत साधितों की सुरक्षा भाग 2 विशेष अपेक्षाएं खंड 9 टोस्टर, चिल, रोस्टर और समान साधित	—	31-10-1993
3.	आईएस : 302-2-15 (1993) घरेलू और समान विद्युत साधितों की सुरक्षा भाग 2 विशेष अपेक्षाएं खंड 15 तापन द्रवों के साधित	—	31-10-1993
4.	आईएस : 367-1992 घरेलू और समान उपयोग के लिए विजली की केतली और जग की विशिष्टि (बौद्धा पुनरीक्षण)	—	30-11-1993
5.	आईएस 1370-1993 प्रेषण पेटट्-वर्षण सतह रखण पटटे की विशिष्टि (तीसरा पुनरीक्षण)	आईएस 1370- 1976	31-08-1993
6.	आईएस 1403 (भाग 1) 1993 धातुओं के यांत्रिक परीक्षण उत्क्रम मुड़ाब परीक्षण भाग 1 चहर और पनी (दूसरा पुनरीक्षण)	—	31-10-1993
7.	आईएस 1448 (भाग 144)-1993 पेट्रोलियम तथा इसके उत्पादों की परीक्षण की पश्चिम भाग 144 गैस वर्ष नेहीं पद्धति द्वारा सी।2 और हल्के हाइड्रोकार्बन उत्पादों में गैर-सघनीय गैर	—	30-11-1993
8.	आईएस 1829 भाग 2) 1993 पुस्तकालय फर्नीचर ओर फिटिंग भाग 2 इस्पात-विणिाइंट (पहला पुनरीक्षण)	आईएस 1829(भाग 2) 1977	31-10-1993
9.	आईएस : 4402-1993 मछली पकड़ने का जाल का कागड़ा—मूल गब्द और परिभाषा, (पहला पुनरीक्षण)	आई एस, 4402-1967	31-10-1993
10.	आईएस 4468 (भाग 2)-1993 पहियेदार कृषि ट्रैक्टर —तीन पिन वाला जोड़ भाग 2 सर्वा 1 एन (संकरा उत्क्र.) (तीसरा पुनरीक्षण)	—	31-10-1993
11.	आई एस 4642-1993 मछली पकड़ने का जाल गाड दार जान कपड़े का विवरण भीर पद्धताम (पहला पुनरीक्षण)	आईएस 4642-1968	31-10-1993

(1)	(2)	(3)	(4)
12.	आईएम 5347 (भाग 2)–1993 अस्थि अन्तर्रेखणी की प्रवेशाएं भाग 2 पिरां ट्रेटलैस इलात (पहला पुनरीक्षण)	आईएम 5347 (भाग 2)	30-11-1993
13.	आईएस 5644 (भाग 4)–1993 धात्विक खूर्ण अवकरण पद्धतियों द्वारा आकसीजन ज्ञात करना। भाग 4 अवकरण- नियन्त्रण द्वारा कुल आकसीजन (सीमरा पुनरीक्षण)	--	31-10-1993
14.	आई एस 5781—1993 फल और सब्जी उत्पाद— अपचायक दाव में सुखाकर शुष्क पदार्थ अंभ और एज्यो- ट्रोपिक आसवन से पानी का अंश ज्ञात करना (पहला पुनरीक्षण)	आई एस 5781—1970	31-10-1993
15.	आई एस 5815 (भाग 6)—1993 जाल बनाने के धारे पानी में डुबाने के बाद लम्बाई में परिवर्तन ज्ञात करना (पहला पुनरीक्षण)	आई एस 5815 (भाग 6) 1981	31-10-1993
16.	आई एस 5921 (भाग 1)—1993 इलैक्ट्रोनिकी और दूरसंचार उपस्कर में प्रवृक्ष मुद्रित स्किट के लिए धातु से ढकी आधारभूत सामग्रियां भाग 1 मामात्य अवेक्षाएं और परीक्षण (दूसरा पुनरीक्षण)	आईएम 5921 (भाग 1)	31-10-1993
17.	आई एस 6356—1993 टूथपोस्ट की विशिष्टि (दूसरा पुनरीक्षण)	आई एस 6356—1978	31-08-1993
18.	आई एस 8059—1993 2-क्लोरो 5-एमिनो टोल्यूइन 4-सल्फोनिक एस्टर, तकनीकी की विशिष्टि (पहला पुनरीक्षण)	आई एस 8059—1976	31-10-1993
19.	आई एस 8243 (भाग 2)—1993 वाष्प निर्वात/पम्प- कार्यकारिता लक्षण का मापन भाग 2 क्रांतिक पूष्टक दाव मापन (पहला पुनरीक्षण)	आई एस 8243 (भाग 2)—1976	30-09-1993
20.	आई एस 8615 : 1993 स्वतः विभोचन 7/24 ट्रैपर धाते स्टब मिर्लिंग आवर की विशिष्टि (पहला पुनरीक्षण)	आई एस 8616—1977	31-10-1993
21.	आईएम 9452 (भाग 1)—1993 नहरों में रिसाव क्षति का मापन की रीति संहिता भाग 1 जल संचयन पद्धति (पहला पुनरीक्षण)	आईएम 9452 (भाग 1)	30-09-1993
22.	आईएस 9714—1993 रखचल वाहन-नियंत्रणों के प्रतीक, मोपेड के सिए सूचक और ट्रैक्टर (पहला पुनरीक्षण)	आईएस 9714—1981	30-11-1993
23.	आई एस 10189 (भाग 2/विषय 2)—1993 जीवोगिक प्रक्रम नियंत्रण वालव	--	31-10-1993

(1)	(2)	(3)	(4)
	भाग 2 प्रवाह क्षमता		
	अनु. 2 संस्थापित दशाओं के अन्तर्गत संपीडन तरल प्रवाह के लिए साइज निर्धारित करने के समीकरण		
24.	आई एस 10386 (भाग 7) — 1993 नदी धाटी परि- योजनाओं का निर्माण प्रचालन तथा रखरखाव की सुरक्षा संहिता भाग 7 अग्नि संरक्षण पहल	—	31-10-1993
25.	आई एस 10976 — 1993 पहिएदार कुसियां नाम पद्धति, आई एस 10976 — 1984 गढ़ एवं परिभाषाएं (पहला पुनरीक्षण)	—	31-10-1993
26.	आई एस 12192 — 1993 मिट्टी उठाने की मशीनरी— प्रबन्धालित उत्कृष्टनिक कुक्कालनमा बालटियां—आयतनी रेटन (पहला पुनरीक्षण)	आई एस 12192 — 1987	31-10-1993
27.	आई एस 12206 — 1993 मिट्टी उठाने की मशीनरी— भारक और अम्रभारक उत्कृष्टनिक बालटियां—आयतनी निर्धारण (पहला पुनरीक्षण)	आई एस 12206 — 1987	30-09-1993
28.	आई एस 12209 — 1993 मिट्टी उठाने की मशीनरी— चालक प्रशिक्षण के लिए कार्यविधि की मार्गदर्शिका (पहला पुनरीक्षण)	आई एस 12209 — 1987	30-09-1993
29.	आई एस 12233 (भाग 2) — 1993 शिरोपरि पावर लाइनों तथा उच्च बोल्टा के उपस्करों के विद्युत चुम्ब- कीय व्यक्तिकरण संबंधी गुणधर्म भाग 2 सीमा जात करने की कार्यविधि एवं मापन पद्धतियां (पहला पुनरीक्षण)	आई एस 12233 (भाग 2)	31-05-1993
30.	आई एस 12645 — 1993 मिट्टी उठाने की मशीनरी— फ्रालर और पहिएदार ड्रेक्टर डोजर ब्लेड-आयतनी रेटिंग (पहला पुनरीक्षण)	आई एस 12645 — 1989	31-10-1993
31.	आई एस 12694 — 1993 लड़े व्यास वाले इस्पात के तार-रस्से (पहला पुनरीक्षण)	आई एस 12694 — 1989	31-10-1993
32.	आई एस 12762 (भाग 2) — 1993 फोटो बोल्टीय पूँजियों की विशिष्टि भाग 2 संदर्भ सौर कोशिकाओं शी अपेक्षाएं	—	31-10-1993
33.	आई एस 13124 — 1993 प्रत्यागमी गैस संपीडन, तक- नीकी पूर्ति गते	आई एस 13124 — 1992	31-10-1993
34.	आई एस 13288 (भाग 4) — 1993 अंतर्राता 1 मान- धारक विशिष्टि भाग 4 सूखे माल के लिए गैर दाव कन्टेनर्स	—	31-10-1993
35.	आई एस 13292 — 1993 पानी विनायक क्लोराइड जूते, आई एस 13292 — 1992 रसायन प्रतिरोधी की विशिष्टि (पहला पुनरीक्षण)	—	31-11-1993

1	2	3	4
36.	आई एस 13550 (भाग 1)---1993 प्रलेखन और सूचना—शब्दावली भाग 1 सूल संकल्पना	--	31-10-1993
37.	आई एस 13586—1993 विजली की थूर्णी मशीनरी के सिए कार्बन, ब्रूश, ब्रुश होल्डर दिक्षितक तथा सर्वोबलय की परिभाषा और नाम पद्धति	--	30-06-1993
38.	आई एस 13615—1993 सूचना प्रक्रमण तंत्रों के लिए आई एस 13615—1992 खुले तंत्र तंत्र सम्पर्क में सहस्रिता निश्चयन तथा सेवा परिभाषा	--	31-08-1993
39.	आई एस 13673 (भाग 3)---1993 विद्युत रसायनिक विश्लेषण की कार्यकारिता अभिव्यक्ति भाग 3 विद्युत अपघटनी चालकता	--	30-09-1993
40.	आई एस 13698 (भाग 2)---1993 माल धारक—जलयान पर धारकों से संबंधित सूचना भाग 2 टैलेक्स अंकड़ा प्रेषण	--	31-10-1993

इन मानकों की प्रतियां भारतीय मानक छूटों, मानक भवन, 9 बहादुरशाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों बम्बई, कलकत्ता, चण्डीगढ़ तथा मद्रास और शास्त्रा कार्यालयों अहमदाबाद, वैगलीर, भोपाल, भुवनेश्वर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना और तिरुनेत्रम्, गांधियाबाद तथा फरीदाबाद में बिक्री हेतु उपलब्ध हैं।

[सं. के. प्र. वि./13 : 21]
एन. श्रीनिवासन, अपर महानिवेशक

New Delhi, the 20th May, 1994

NOTIFICATION

S.O. 1361.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard(s), particulars of which is/are given in the Schedule hereto annexed, has/have been established on the date indicated against each:

THE SCHEDULE

Sl. No. and Title of the Indian Standard(s) No. Established	No. and year of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Date of Establishment	
(1)	(2)	(3)	(4)
1. IS 302-2-4 (1993) Safety of household and similar electrical appliances Part 2 Particular Requirements Section 4 Spin Extractors	--	31-10-1993	
2. IS 302-2-9(1993) Safety of household and similar electrical appliances Part 2 Particular Requirements Section 9 Toasters, Grills, Roasters and Similar Appliances	--	31-10-1993	
3. IS 302-2-15 (1993) Safety of household and similar electrical appliances Part 2 Particular Requirements Section 15 appliances for Heating Liquids	--	31-10-1993	

(1)	(2)	(3)	(4)
4.	IS 367—1993 Electric Kettles and jugs for household and similar use—specification (Fourth Revision)	IS 367—1983	30-11-1993
5.	IS 1370—1993 Transmission Belting—Friction Surface Rubber Belting—Specification (Third Revision)	IS 1370—1976	31-08-1993
6.	IS 1403 (Part 1)—1993 Mechanical testing of metals—reverse bend test part I sheet and strip (Second Revision)	--	31-10-1993
7.	IS 1448 (P : 144)—1993 Methods of test for petroleum and its products (P : 144) Non-condensable gases in C2 and lighter hydrocarbon products by gas chromatography	--	30-11-1993
8.	IS 1829 (Part 2)—1993 Library furniture and fittings and fittings Part 2 steel—specification (First Revision)	IS 1829 (Part 2)—1977	31-10-1993
9.	IS 4402—1993 Fishing nets-netting—basic terms and definitions (First Revision)	IS 4402—1967	31-10-1993
10.	IS 4468 (Part 2)—1993 Agricultural wheeled tractors three-point linkage Part 2 category 1 N (Narrow Nitch) (Third Revision)	--	31-10-1993
11.	IS 4641—1993 Fishing nets—description and designation of knotted netting (First Revision)	IS 4641—1968	31-10-1993
12.	IS 5347 (Part 2)—1993 Requirements for Orthopaedic Implants Part 2 wrought stainless steel (First Revision)	IS 5347 (Part 2)—1984	30-11-1993
13.	IS 5644 (Part 4)—1993 Metallic Powders— Determination of Oxygen Count by Reduction Methods Part 4 Total Oxygen By Reduction— Extraction (Third Revision)	--	31-10-1993
14.	IS 5781—1993 Fruit and Vegetable products— determination of dry matter content by drying under reduced pressure and of water content by azeotropic distillation (First Revision)	IS 5781—1970	31-10-1993
15.	IS 5815 (Part 6)—1993 Netting yarns—determination of change in length after implosion in water (First Revision)	IS 5815 (Part 6); 1981	31-10-1993
16.	IS 5721 (Part 1)—1993 Specification for metal-clad base materials for printed circuits for use in electronic and telecommunication equipment Part 1 General Requirements and test (Second Revision)	IS 5921 (Part 1) : 1783	31-10-1993
17.	IS 6356—1993 Toothpaste—specification (Second Revision)	IS 6356—1978	31-08-1993
18.	IS 8059—1993 2-Chloro-5-Aminotoluene-4-Sulphonic Acid, Technical—Specification (First Revision)	IS 8059—1976	31-10-1993

(1)	(2)	(3)	(4)
19.	IS 8243 (Part 2)—1993 Vapour Vacuum pumps—measurement of performance characteristics Part 2 measurement of critical baking pressure (First Revision)	IS 8243 (Part 2)—1976	30-09-1993
20.	IS 8615 : 1993 Stub milling arbors with self-release 7/24 Taper—specification (First Revision)	IS 8615—1977	31-10-1993
21.	IS 9452 (Part 1) : 1993 Measurement of seepage losses from canals—Code of practice Part 1 Ponding Method (First Revision)	IS 9452 (Part 1) : 1980	30-09-1993
22.	IS 9714 : 1993 Automotive vehicles—symbols for controls, indicators and telltales for mopeds (First Revision)	IS 9714 : 1981	30-11-1993
23.	IS 10189 (Part 2/Sec 2) : 1993 Industrial Process control valves Part 2 flow capacity Section 2 Sizing Equations for Compressible fluid flow under installed conditions	—	31-10-1993
24.	IS 10386 (Part 7)—1993 Construction, Operation and Maintenance of River Valley Projects—Safety Code Part 7 Fire Safety Aspects	—	31-10-1993
25.	IS 10976 —1993 Wheelchairs—nomenclature, terms and definitions (First Revision)	IS 10976—1984	31-10-1993
26.	IS 12192—1993 Earth-moving machinery—hydraulic excavators—hoe type buckets—volumetric ratings (First Revision)	IS 12192—1987	31-10-1993
27.	IS 12206—1993 Earth-moving machinery—loader and front loading excavator buckets—volumetric ratings (First Revision)	IS 12206—1987	30-09-1993
28.	IS 12209—1993 Earth-moving machinery—guide to procedure for operator training (First Revision)	IS 12209—1987	30-09-1993
29.	IS 12233 (Part 2)—1993 Electromagnetic interference characteristics of overhead power lines and high voltage equipment Part 2 Method of measurement and procedure for determining limits	IS 12233 (Part 2)—1992	31-05-1993
30.	IS 12645—1993 Earth-moving machinery—crawler and wheel tractor dozer blades—volumetric ratings (First Revision)	IS 12645—1989	31-10-1993
31.	IS 12694—1993 Large diameter steel wire ropes (First Revision)	IS 12694—1989	31-10-1993
32.	IS 12762 (Part 2)—1993 Specification for photovoltaic devices Part 2 Requirements for reference solar cells	—	31-10-1993
33.	IS 13124—1993 Reciprocating gas compressors—technical supply conditions	IS 13124—1992	31-10-1993
34.	IS 13288 (Part 4)—1993 Series 1 freight containers—specification and testing Part 4 non-pressurized containers for dry bulk	—	31-10-1993
35.	IS 13292—1993 Polyvinyl chloride boots, resistant to chemicals—Specification (First Revision)	IS 13292—1992	31-11-1993

(1)	(2)	(3)	(4)
36. IS 13550 (Part 1)—1993 Documentation and information—vocabulary Part 1 basic concepts	—	—	31-10-1993
37. IS 13586—1993 Definitions and nomenclature for carbon brushes, brush-holders, commutators and slip-rings for electrical machinery	—	—	30-06-1993
38. IS 13615—1993 Service definition for the association control service element in open systems interconnection for information processing systems	IS 13615—1992	—	31-08-1993
39. IS 13673 (Part 3)—1993 Expression of performance of electrochemical analyzers Part 3 electrolytic conductivity	—	—	30-09-1993
40. IS 13698 (Part 2)—1993 Freight containers—information related to containers on board vessels Part 2 telex data transmission	—	—	31-10-1993

Copies of these Indian Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Calcutta, Chandigarh, Madras, Bombay and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Faridabad, Ghaziabad, Guwahati, Hyderabad, Jaipur, Kaipur, Lucknow, Patna, Thiruvananthapuram.

[No. CMD/13 : 2]
N. SRINIVASAN, Addl. Director General

इस्पात मंत्रालय

नई दिल्ली, 18 मई, 1994

का.आ. 1362 —राजभाषा नियम [संघ के ज्ञासकीय प्रयोजनों के लिए प्रयोग (1976) यथा संशोधित, 1987] के नियम-10 के उप नियम (4) के अनुसरण में केन्द्रीय सरकार एतद्वारा महाराष्ट्र इलैक्ट्रोस्मेल्ट लिमिटेड, चन्द्रपुर (स्टील अथॉरिटी ऑफ हिंडिया लिमिटेड की सहायक कम्पनी) को जिसके 80 प्रतिशत से अधिक कम्बन्चारी-बुन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, प्रधिसूचित करती है।

[स. ई.-11011(1)/91-हिन्दी]
हस कुमार जैन, उप सचिव

MINISTRY OF STEEL

New Delhi, the 18th May, 1994

S.O. 1362.—In pursuance of Sub-rule (4) of rule 10 of the Official Language (use for Official purpose of the Union) rules, 1976 (As amended, 1987) the Central Government hereby notifies the Maharashtra electrosmelt Limited, chanderpur (A subsidiary of steel Authority of India Ltd.), whereof more than 80 per cent staff have acquired working knowledge of Hindi.

[No. E. 11011(1),91-Hindi]
H. K. JAIN, Dy. Secy.

खान मंत्रालय

आदेश

नई दिल्ली, 24 मई, 1994

का.आ. 1363 :—केन्द्रीय सरकार, खान और खनिज (विनियमन और विकास) अधिनियम, 1957 (1957 वा 67) की धारा 24 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गोवा सरकार के निम्नलिखित अधिकारियों, प्रथात् :—

1. निदेशक, उद्योग और खान;
2. संयुक्त निदेशक, उद्योग और खान;
3. सहायक भू-विज्ञानी;
4. ज्येष्ठ तकनीकी सहायक;

को गोवा राज्य के भीतर किसी खान की शावत उक्त अधिनियम की धारा 24 की उपधारा (1) और उपधारा (2) के अधीन प्रयोक्तत्व शक्तियों के प्रयोजनों, प्रथात् :—

1. किसी खान में प्रवेश करने और उसका निरीक्षण करने;
2. किसी ऐसी खान में सर्वेक्षण करने और माप करने;
3. किसी खान पर पड़े खनिज स्टाक के बजान, माप या माप लेने;
4. किसी ऐसे वस्तावेज, बही, रजिस्टर या अभिलेख की, जो ऐसे अधिकत या कमज़े या शक्ति में है, जिन का किसी खान पर नियंत्रण है या जो उसमें संपर्क

- है, जांच करने और उस पर पहचान-चिन्ह लगाने और ऐसी दस्तावेज, वही, रजिस्टर या अभिलेख में उद्धरण लेने या उनकी प्रतियां तैयार करने;
5. ऐसी किसी दस्तावेज, वही, रजिस्टर, अभिलेख को जैसा छंड (4) में निर्दिष्ट है, प्रत्युत करने का आदेश देने;
 6. ऐसे किसी व्यक्ति की, जिसका किसी खान पर नियंत्रण है या उससे संबंधित है, जांच करने के लिए प्राधिकृत करती है।

[फा.सं. 1(1)/94-खान-6]
डी.वी. सिंह, निदेशक

**MINISTRY OF MINES
ORDER**

New Delhi, the 24th May, 1994

S.O. 1363.—In exercise of the powers conferred by sub-section (1) of section 24 of the Mines and Minerals (Regulation and Development) Act, 1957 (67 of 1957), the Central Government hereby authorises the following officials of the Government of Goa, namely :—

1. The Director of Industries and Mines;
2. The Joint Director of Industries and Mines;
3. The Assistant Geologist;
4. The Senior Technical Assistant;

for the purposes of exercising powers under sub-sections (1) and (2) of section 24 of the said Act, in relation to any mine within the State of Goa, namely, to :—

- (i) enter and inspect any mines;
- (ii) survey and take measurements in any such mine;
- (iii) weight, measure or take measurements of the stocks of minerals lying at any mine;
- (iv) examine any document, book, register, or record in the possession or power of any person having the control of, or connected with any mine and place marks of identification the room, and take extracts from or make copies of such document, book, register or record;
- (v) order the production of any such document, book, register, record, as is referred to in clause (iv); and
- (vi) examine any person having the control of, or connected with, any mine.

[F. No. 1(1)/94-M.VI]
D. V. SINGH, Director

मानव संसाधन विकास मंत्रालय
(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 16 मई, 1994

का.आ. 1364:—केन्द्रीय सरकार राजभाषा (भष्म) के शासकीय प्रयोजनों के लिए प्रयोग नियम 10 (4) के अनुसरण में नेहरू युवा केन्द्र संगठन के निम्नलिखित कार्यालयों को जिनके कर्मचारी बुन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

अम सं	नेहरू युवा केन्द्र	राज्य	ध्रेत्र
1.	नेहरू युवा केन्द्र, करनाल	हरियाणा	'क'
2.	नेहरू युवा केन्द्र, बलसाह	गुजरात	'ब'
3.	नेहरू युवा केन्द्र, बीजापुर	कर्नाटक	'ग'

[मि.सं. 3-1/94-हि.ए.]
शशी कान्त शर्मा, निदेशक

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT
(Department of Youth Affairs and Sports)**

New Delhi, the 16th May, 1994

S. O. 1364:—In pursuance of rule 10(4) of the Official Language (use for official purposes of the Union) Rule 1976, the Central Government hereby notifies the following Officers of Nehru Yuva Kendra Sangathan the staff whereof have acquired a working knowledge of Hindi :—

S. Nehru Yuva Kendra No.	States	Region
1. Nehru Yuva Kendra, Karnal.	Haryana	'A'
2. Nehru Yuva Kendra, Balsad.	Gujarat	'B'
3. Nehru Yuva Kendra, Bijapur.	Karnataka	'C'

[F. No. 3-1/94-H.U.]
S.K. SHARMA, Director

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 13 मई, 1994

का.आ. 1365:—चलचित्र (प्रमाणन) नियम, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और इस मंत्रालय की दिनांक 30-9-91, 24-1-92, 24-8-92, 13-11-92 तथा 16-11-92 की अधिसूचनाओं सं. 814/11/90-एफ (ली) और 4-5-93 एवं 19-7-93 की अधिसूचना सं. 689/9/93-एफ (सी) के अनुक्रम में केन्द्रीय सरकार मुश्त्री

पुष्पा डोगरा, फ्लैट नं० ६, तीसरी मंजिल, यशवंत प्लेस, नई दिल्ली को केन्द्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सलाहकार पैनल के सदस्य के रूप में तत्काल प्रभाव से अगले आदेशों तक नियुक्त करती है।

[फा सं. 809/9/93-एफ (सी)]
के. एस. वेंकटरामन, उप सचिव

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 13th May, 1994

S.O. 1365.—In exercise of the powers conferred by sub-section (1) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules 1983 and in continuation of this Ministry's Notifications No. 814/11/90-F(C) dated 30-9-91, 24-1-92, 24-8-92, 13-11-92 and 16-11-92 and No. 809/9/93-F(C) dated 4-5-93 and 19-7-93, the Central Government is pleased to appoint Ms. Pushpa Dogra, Flat No. 6, 3rd Floor, Yashwant Place, New Delhi, as a member of the Delhi Advisory Panel of the Central Board of Film Certification with immediate effect and until further orders.

[File No. 809/9/93-F(C)]
K. S. VENKATARAMAN, Dy. Secy.

नई दिल्ली, 30 मई, 1994

का.आ. 1366:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के उप नियम 10 (4) के अंतर्गत सूचना और प्रसारण मंत्रालय के निम्नलिखित कार्यालय को जिनके 80% से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

केन्द्र अभियंता,
ग्राकाशवाणी, कोच्चि-682021

[संख्या ई-11011/1/93-हिन्दी]
मे.कृ. गोरावारा, निदेशक (रा.भा.)

New Delhi, the 30th May, 1994

S.O. 1366.—In pursuance of Sub-rule (4) of Rule 10 of the Official Languages (use for official purposes of the Union) Rules, 1976 the Central Government hereby notify the following office of the Ministry of Information and Broadcasting where more than 80 per cent of the staff have acquired the working knowledge of Hindi:—

Station Engineer,
All India Radio,
Kochin-682021.

[No. E-11011/93-Hindi]
P. K. GORAWARA, Director (O.L.)

संचार मंत्रालय
(डाक विभाग)
कोच्चि, 2 जून, 1994

का. आ. 1367:—केन्द्र सरकार की राय में श्री के. मोहनकुमार, डाकिया, आलप्पी नार्थ डाकघर से संबंधित विभागीय जांच में गवाहों के रूप में बुलाना/गवाहों से कोई दस्तावेज मांगना आवश्यक है।

विभागीय जांच अधिनियम, 1972 (1972 का 18 वां) (गवाह की उपस्थिति एवं दस्तावेजों की प्रस्तुति का प्रवर्तन) की धारा 4 की उप धारा 1 द्वारा प्रदत्त शक्तियों का प्रत्यायोजन करते हुए, केन्द्र सरकार श्री के. मोहनकुमार, डाकिया, आलप्पी नार्थ डाकघर के विरुद्ध नियम 14 के अधीन पूछताछ के सिलसिले में, उक्त अधिनियम की धारा 5 में विस्तृदृष्ट शक्तियों का प्रत्यायोजन करने जांच प्राधिकारी के रूप में श्री पी. के. कुंजुकुट्टी, सहायक अधीक्षक डाक घर, आलप्पी उप मंडल को एतेहास प्राधिकृत करती है।

[सं. सतर्कता/4-2/2/86]

मनु व्यास

पोस्टमास्टर जनरल, मध्य क्षेत्र, कोच्चि-682016

MINISTRY OF COMMUNICATION

(Department of Posts)

Kochi, the 2nd June, 1994

S.O 1367.—Whereas the Central Government is of opinion that for the purposes of the departmental inquiry relating to Shri K. Mohankumar, Postman, Alleppey North PO it is necessary to summon as witnesses|call any document from the witnesses.

Now therefore, in exercise of the powers conferred by sub-section (i) of Section 4 of the Departmental Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1972 (18 of 1972), the Central Government hereby authorise Shri PK Kunjukutty, Asst. Supdt. of Post Offices, Alleppey Sub Dn as the Inquiring Authority to exercise the power specified in Section 5 of the said Act in relation to the Rule-14 inquiry against Shri K Mohankumar, Postman, Alleppey North Post Office.

[No. Vig 4-2/2/86]
M. VYAS, Postmaster General
Central Region, Kochi-682016

कोच्चि, 1 जून, 1994

का.आ. 1368:—केन्द्र सरकार की राय में श्री के.एन. सोमसुन्दरन पिल्लै, छटाई सहायक, प्रधान अभिलेख

कार्यालय, रेल डाक सेवा "ई.के." मंडल, एरनाकुलम, कोच्ची-682016 से संबंधित विभागीय जांच में, गवाह के रूप में दक्षिण रेलवे को बुलाना/दक्षिण रेलवे से कोई दस्तावेज मांगना आवश्यक है।

विभागीय जांच अधिनियम 1972 (1972 का 18-वां) गवाह की उपस्थिति एवं दस्तावेजों की प्रस्तुति का प्रबर्तन, की धारा 4 की उपधारा 1 द्वारा प्रदत्त शक्तियों का प्रत्यायोजन करते हुए, केन्द्र सरकार, थी. के.एन. सोमसुन्दरन पिल्लै, छांटाई सहायक, प्रधान अभिलेख कार्यालय, रेल डाक सेवा, "ई.के." मंडल, कोच्ची-16 के विरुद्ध नियम 14 के सिलसिले में, पूछताछ से संबंधित उक्त अधिनियम की धारा 5 में विनिर्दिष्ट शक्तियों का प्रत्यायोजन करने जांच प्रधिकारी के रूप में थी के.पी. जोसफ, सहायक निदेशक, पोस्ट मास्टर जनरल का कार्यालय, कोच्ची-682016 को एतद्वारा प्राधिकृत करती हैं।

[सं. सतर्कता/4/2/8-87]
मन् व्यास, पोस्टमास्टर जनरल
मध्य क्षेत्र, कोच्ची-682016.

Kochi, the 1st June, 1994

S.O 1368.—Whereas the Central Government is of opinion that for the purposes of the Departmental inquiry relating to Shr K. N. Somasundaram Pillai, Sorting Assistant, Head Record Office, RMS 'EK' Dn, Ernakulam, Kochi-682016 it is necessary to summon as witnesses|call for any document from Southern Railway.

Now therefore, in exercise of the powers conferred by sub section (i) of section 4 of the Departmental inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act 1972 (18 of 1972) the Central Government hereby authorise Shri K.P. Joseph, Asstt. Director, O/o The PMG, Central Region, Kochi-682016, as the Inquiring Authority to exercise the power specified in Section 5 of the said Act in relation to the Rule-14 enquiry against Shri KN Somasundaram Pillai, Sorting Assistant, HRO, RMS 'EK' Dn, Kochi-16.

[No. Vig/4-2/8-87]

M. VYAS, Postmaster General
Central Region, Kochi-682016

अम मंत्रालय

नई दिल्ली, 11 मई, 1994

का.आ. 1369.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

चण्डीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-5-94 को प्राप्त हुआ था।

[संख्या एल-12012/509/87-डी-2(ए)आईआर बी आई]
एस.एस.के. राव, डैस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 11th May, 1994

S.O. 1369.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 10-5-1994.

[L-12012/509/87-D.II(A)I.R.B.I]
S. S. K. RAO, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 46/88

Pritam Chand and Ghan Sham Dass.

Vs.

State Bank of India.

For the workmen : Shri J. G. Verma.

For the management : Shri Ashok Khullar and Shri R. K. Chopra.

AWARD

Central Government vide Gazette Notification No. I-12012/509/87-D.II(A) dated 14th July, 1988 U/S 10(1)(d) of Industrial Dispute Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of State Bank of India in dismissing Shri Pritam Chand and Ghan Sham Dass is legal and justified ? If not, to what relief the workmen are entitled to?"

Pritam Chand's Case

2. The brief facts as enumerated that the petitioner was charged sheeted for having fraudulently withdrawn a sum of Rs. 12,800 from the saving bank account No. 9464 of one Shri V. K. Suri on 23 different dates and deposited the same amount after verbal confession in five instalments in the same account. Similarly he withdrawn a sum of Rs. 2700 from the saving bank account No. 5590 of Padma Rai on three different occasions and after verbal confession deposited the said amount in six instalments. Similarly he also made withdrawal of Rs. 100 from saving bank account No. 9554 without keeping sufficient balance. Thus creating overdraft of Rs. 95.14. The petitioner in his statement of claim has alleged that the complaints allegedly made by Mr. Padma Rai is dated 5-1-1983 and Vijay Kumar dated 13-6-1985 they were not produced for the purpose of cross-examination by the petitioner. It has further been pleaded that the bank's representative has admitted that the complaint of Vijay Kumar was secured by him when he visited his shop and he has dated that he is not aware who procured the the complaint of Padma Rai. It has been pleaded that both the complaints are subsequent to the suspension of the petitioner which leads to the conclusion that the complaints were secured by the officers. All the transactions alleged to be fraudulent are genuine one. The documents produced in the enquiry do not speak by themselves and the inference drawn by the enquiry officer in absence of any statement from the complainants is wholly unjustified. Enquiry Officer has illegally shifted the onus to prove his innocence in violation of the principle of

natural justice. The findings of the enquiry officer are perverse as the management fully failed to bring home the charges. It has further been pleaded that the charge of fraud can not be said to have been proved by mere fact of signatures on the withdrawal slips or on the deposit slips by the workman. In fact at the time of payment of withdrawals since pass book was not included. The depositor took the assistance for getting the payment and he as in token of acquaintance with the depositors signed the withdrawals slips below the signatures of the depositor. Therefore, if the signatures of the depositors do not tally with the recorded signatures, the officers who passed the withdrawals can be said to be negligent but it can not be inferred from this fact that the workman had fraudulently encashed the said withdrawals. It has further been pleaded that certain slips signed by him are after the suspension which means that the workman was called by the branch manager and got signed the deposit slips purposely to justify their action of placing him under suspension. The depositors had not made any claim against the bank nor the bank had suffered any monetary loss rather it was the management who procured the complaints thereafter. Further plea of the petitioner that the charges can not be said to have been proved without corroborating the documents relied by the enquiry officer. Disciplinary authority as well as appellate authority also committed a gross error while brushing aside the submissions made by him and they also fell in line with the enquiry officer. He has thus sought reinstatement with full back wages and consequential benefits.

3. The management filed the written statement. The management has taken the plea that during the course of enquiry the petitioner was given full opportunity to defend his case and the principle of natural justice were complied. Report of the enquiry officer was based on the evidence led during the enquiry proceedings. The disciplinary authority had also applied his mind on the charges and evidences led during the course of enquiry before inflicting the punishment. The petitioner was given personal hearing before the final decision was passed. The punishment awarded is in the proportion of the charges levelled against him. The gross misconduct committed by the petitioner casts serious aspersions on the integrity and bona fides, therefore, his continuation in service could have exposed the bank to grave risks. The petitioner preferred an appeal before the appellate authority. Personal hearing was also given to the petitioner. Appellate authority also dismissed the appeal. Thus the management sought the dismissal of this reference.

4. Replication was also filed, reasserting the claim made in the claim statement.

5. Petitioner produced himself as WW4. He filed his affidavit Ex. W5. The management got proved the documents Ex. M8 to M12. MW1 J. K. Verma, Deputy Manager is the management's witness. He filed his affidavit Ex. M13. Ex. W1 to W4 and Ex. M1 to Ex. M7 recorded in Ghanshyam's case. The respective parties closed their evidence.

6. I have heard both the parties, gone through the evidence and record.

7. Representative of the petitioner has pointed out that the findings recorded by the enquiry officer is based on no legal evidence and findings are either ipse-dixit or based on the conjectures and surmises. It has also been pointed out that during the course of enquiry no witness has been produced by the management. Even the complainants the account holder have not been produced, the result thereof that the same has caused great prejudice to the petitioner and he is entitled to re-instatement with full back wages. There is merit in the contention raised by the representative of the petitioner. It is settled principle of law that enquiry can not be said to have properly held unless employee proceeded against has been informed clearly of the charges levelled against him, (ii) the witnesses are examined in the presence of the employee in respect of the charges, (iii) employee is given fair opportunity to cross-examine the witnesses, (iv) he is also given fair opportunity to examine witnesses including himself in his defence if he so wishes on any relevant matter and (v) enquiry officer records his findings with reasons for the same in his report.

The enquiry proceedings has been placed on the record by the management. Undoubtedly the management of a concern has powers to direct its own internal administration and discipline but the powers are not unlimited and when dispute arises, the Tribunal has given the powers to see whether the termination of services of workman is justified and to give proper relief. In case of dismissal or misconduct the Tribunal does not ever act as a Court of appeal and substitute its own judgement for that of management. The Court will interfere only (i) when there is want of good faith, (ii) when there is victimisation or unfair labour practice (iii) when the management has been guilty of basic error or violation of principles of natural justice, (iv) when the material findings are completely baseless or perverse. In the instant case there is inherent lacuna in the enquiry proceedings. The basic charge against the petitioner that he had fraudulently withdrawn a sum of Rs. 12800 from the saving bank account No. 9464 of one Vijay Kumar on various occasions numbering 23 on different dates and similarly a sum of Rs. 2700 from the saving bank account No. 5590 of Padma Rai on three occasions on different dates and thereafter deposited the matching amount on five and six instalments in the accounts respectively. Initiation of the proceedings on account of complaints of said Padma Rai dated 5-1-1983 and of Vijay Kumar dated 13-6-1985, both the complaints have been placed on the record. The complaint of Padma Rai is absolutely silent about the involvement of the petitioner. Similar is the case of complaint of Vijay Kumar wherein he has named Pritam Chand petitioner on the basis of conversation between the management and the cashier who has told the management that Pritam Chand had withdrawn the amount and it find mention in the complaint that Pritam Chand had agreed that he withdrawn the amount and subsequently deposited the same in the instalments. Thus it emerges that Padma Rai had not named the petitioner in his complaint and name of the petitioner find mentioned in the complaint of Vijay Kumar merely on the basis of conversation between the management and the cashier. It is also evident that Vijay Kumar had not voluntarily made the said complaint. In the proceedings dated 18-6-1985 the banks representative had admitted that complaint of Vijay Kumar saving bank account holder was given to him by Vijay Kumar when he approached him what had transpired in his account. The matter does not rest here. Admittedly the said complaints are procured from Vijay Kumar on 13-6-1985 and in the complaint given by Padma Rai where the petitioner does not figure at all is dated 5-1-1983 when the petitioner had already been placed under suspension on 10-12-1982 much prior to the submission of said complaints for the reasons best known to the management without explanation during the course of enquiry and as well in the present proceedings.

Another dent in the enquiry is non production of any witness by the management. In order to bring charges against the petitioner the production of said two complainants namely Padma Rai and Vijay Kumar was very pertinent in relation to their signatures on the withdrawals on which the enquiry officer has placed much reliance in his enquiry report. The said withdrawal slips has been perused from the enquiry proceedings. It is evident that withdrawals slips are duly signed by the respective account holders i.e. Padma Rai and Vijay Kumar in the place meant for the signatures of the account holder. Then at the back of the withdrawal slips bears the signatures of respective account holders i.e. Padma Rai and Vijay Kumar, and it is only below their signatures of the back of withdrawal slips is the signatures of the petitioner. It is thus implied that the said withdrawal slips duly signed by the respective account holders and the signatures of the petitioner below the signatures of the account holder at the back of the said withdrawal slips can only be to the extent of identifying the said account holder at the time of actual disbursement of the cash in the presence of the account holders. However in order to prove that account holders were not present on the dates of the withdrawals slips and actual disbursement and that the signatures on withdrawal slips are not of theirs, the management was heavily burdened to prove the same while producing the said account holders during the course of enquiry. The non-production of said account holders has caused a utmost prejudice to the petitioner. The management has also not cared to produce any witness during the course of enquiry at least to show that

the signatures on the withdrawal slips do not tally with the specimen signatures in the custody of the bank. The findings of the enquiry officer in this context that the signatures differ and the signatures of the depositors are forged by the petitioner and the payment of the said has been obtained by him under his signatures is without any basis, not based on any documentary oral and handwriting expert evidence. It has been held in Rajinder Kumar Kindra Vs. Delhi Administration reported in AIR 1984 Supreme Court page 1805 that it is well settled that where the findings of misconduct is based on no legal evidence and the conclusion is one to which no reasonable man would come, the arbitrator appointed U/S 10A and Court in appeal under Article 136 can reject such findings as perverse. It has also been observed that it is equally well settled that where the findings based on no legal evidence and the findings are either ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stand vitiated. The industrial tribunal or the arbitrator or a quasi judicial authority can reject not only such findings but also the conclusion based on no legal evidence or if it is merely based on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind.

9. The matter does not rest here. The management has repeatedly laid a stress on the oral confession of the petitioner, but in this context there is no evidence that the said oral confession was made when, where and to whom. In the enquiry proceedings dated 29-4-1985 no doubt the question was put to the petitioner whether he admits the charges but the reply is evident that the petitioner remains mum neither he admit it nor he denied the same. Therefore, nothing hinges in this. Similarly in the same context in the complaint of Vijay Kumar dated 13-6-1985, there is reference that during the conversation between manager and cashier in his presence, the petitioner had admitted that he had withdrawing the amount. This aspect also does not help the management in absence of examination of said persons as witnesses during the course of enquiry.

10. Another feature which has been stressed by the management that the name of the petitioner figure in the teller's register maintained by the teller that the petitioner withdrawn the amount. Merely that the name of the petitioner mentioned in the teller register does not fully establishes that the petitioner in solitary had withdrawn the amount unless the said teller is examined as witness and his statement is put in scrutiny in evidence.

11. Therefore, in view of the discussions made in the earlier paras the whole enquiry is based on no legal evidence and suffers from additional infirmity and total non-application of mind and the findings of misconduct based on total absence of evidence must fail, therefore, enquiry conducted against the petitioner stands vitiated.

12. The management has not taken any plea in the written statement that in event the tribunal coming to the conclusion that the enquiry is bad in the eyes of law, they be allowed to lead evidence in support of the fairness of the enquiry. Therefore, now it is closed chapter for the management as laid down by the Hon'ble Supreme Court in Shambu Nath Goel Vs. Bank of Baroda reported in 1983 I.C. page 1697. Consequence thereof the relief of reinstatement to the petitioner must be granted. Therefore, order of dismissal is setaside and the petitioner is ordered to be reinstated in service with full back wages and all consequential benefits.

Chandigarh

30-4-1994.

ARVIND KUMAR, Presiding Officer,
Central Govt. Industrial Tribunal-cum-Labour
Court, Chandigarh

Ghanshyam Dass Vs. State Bank of India

Brief facts as set out in the statement of claim that the petitioner joined the service of the bank on 22-9-1977. He has been performing the duties diligently and honestly. He

has stated to have availed LFC between 5-4-1984 to 11-4-84. He undertook the journey in the hired taxi No. HPZ 245 after seeking permission. A bill was prepared by Taxi Driver on a printed performa showing the meter reading from 70150 to 72480. The bill was paid. It has been alleged that after a period of one year it came to the notice of the bank that taxi No. HPZ 245 was hired by the bank for travelling by the officers of the bank. The petitioner was charge sheeted on 13-7-1985 inter-alia alleging the claiming of fake bill. He demanded the complaint alongwith the documents but the same was not supplied. He filed reply to the charge sheet indicating the underhand dealing of the taxi drivers. The charge sheet was vague. The management has not questioned the journey undertaken by him to Mount Abu. The only point in dispute that Taxi number hired by the petitioner and the bank coincides with the number shown in the bill dated 7-4-1984 which was used by the bank. It is alleged that as per procedure in the departmental enquiry the onus is on the management to prove the charge. But however in the instant case the management has failed to bring home the charges. No witness has been produced during the enquiry who could corroborate the bank's version. The taxi owner was very important witness who could explain the situation under which two cars were used with the same number but taxi owner was also not produced. The enquiry on the dates 15-11-1985, 4-12-1985, 12-12-1985, 15-1-1986, 20-1-1986 and 22-1-1986 were conducted in his absence. No proper opportunity was given to him for his defence. The management permitted to submit a school certificate with regard to his son aged five years but he was not given any opportunity to rebut the same. The procedure adopted and the findings of the enquiry officer was perverse. Further plea of the workman that the procedure laid down for the payment of LFC bill in case of doubt in regard to journey by higher class and in the eventuality of its being proved the management was required to reimburse the ordinary class fair the question of charge sheet and punishment does not arise the punishing authority had not taken cognisance of the submissions made by him while passing the orders. Further plea of the petitioner that meter reading showing of the said vehicle used for travelling was 19722 to 19960 and the taxi was driven by Mr. Rana whereas the taxi hired by the petitioner was driven by Fakadur Singh having the meter reading 70150 to 72480. The taxi also went out of order at Mount Abu and got repaired from Feroze Motor Garage. Further plea of the petitioner that in more severe cases of one K. K. Bindlish it was proved beyond doubt that his family had not undertaken the journey he was retained in the services without any punishment. It has further been alleged that disciplinary authority has given his decision without application of his mind and on defective enquiry and the decision is thus illegal, unjustified. He has thus sought the re-instatement with full back wages.

2. The management has filed the written statement. The plea has been taken that the departmental enquiry was proceeded against the petitioner for claiming fake bill of Rs. 2268 in connection with the I.T.C. availed of by him for visiting Mount Abu from 5-4-1984 to 11-4-1984. This T.A. bill was enclosed the receipt allegedly issued by M/s. Tarsem Taxi Service being charges for hiring taxi No. HPZ 245. The taxi infact was not hired by the petitioner during the period but it was hired by the local head office Chandigarh. The departmental enquiry was conducted in a prescribed manner and the petitioner was given full opportunity. The principle of natural justice was followed. Enquiry officer as well as disciplinary authority took cognisance of all the submissions made by the petitioner and the findings recorded by the enquiry officer is based on the evidence. The petitioner was given the punishment keeping in view the gross misconduct committed by him for submitting a fake bill cast serious suspensions on his integrity and bonafide. Further plea that the appellate authority also dismissed the appeal after examining all the facts and circumstances. The management remained silent in relation to the case of K. K. Bindlish. The management thus sought the dismissal of this reference.

3. Replication was also filed, reasserting the same facts as claimed in the statement of claim.

4. The petitioner in support of his case examined Bahadur Singh Taxi Driver. He filed his affidavit Ex. W1. The petitioner filed his affidavit Ex. W2. The management got proved the documents Ex. M1 to M7 ((Ex. M8 to M.13 are in Pritam Chand's case). The petitioner also produced Sharif Khan the taxi repairer. He filed his affidavit Ex. W3. MW2 S. K. Wadhawa is the management witness. He filed his affidavit Ex. W14. The management could not produce their witness Kashmira despite last opportunity. Evidence of the management was ordered to be closed by the order of this Court on 21-7-1992. The petitioner in additional evidence has produced Ww4 Major Manmohan Singh, Principal Indian Publ. School and got proved the documents Ex. 'X' and 'Y'. The respective parties closed their evidence.

5. I have heard both the parties, gone through the evidence and record.

6. Representative of the petitioner has argued that during the enquiry no witness has been produced by the management. The findings recorded by the enquiry officer is either ipse-dixit or has based on no legal evidence, therefore, the same is liable to be vitiated and the petitioner deserves reinstatement with full back wages. After perusing all the aspects, there is merit in the contention raised by the representative of the petitioner. Enquiry proceedings has been placed on the record by the management. Undoubtedly the management of a concern has powers to direct its own internal administration and discipline but the powers are not unlimited and when dispute arises, the Tribunal has given the powers to see whether the termination of services of workman is justified and to give proper relief. In case of dismissal or misconduct the Tribunal does not ever act as a Court of appeal and substitute its own judgement for that of management. The Court will interfere only (i) when there is want of good faith, (ii) when there is victimisation or unfair labour practice (iii) when the management has been guilty of basic error or violation of principles of natural justice (iv) when the material findings are completely baseless or perverse. In the instant case the basic charge against the petitioner that he has claimed a fake bill in connection with the leave fare concession facility availed by him for visiting Mount Abu from 5-4-1984 to 11-4-1984 on the ground that the journey shown to have undertaken by him by Taxi No. HPZ 245. The said Taxi No. HPZ 245 was also hired by the Local Head Office during the period shown to have hired by him. The management in this context during the course of enquiry placed reliance on the bills of M/S Tarsem Taxi Service issued to the petitioner as well as to the bank in relation to the Taxi No. HPZ 245 and also toll tax receipts on account of tax paid at Shahabad Markanda Bridge in respect of Taxi No. HPZ 245 and the tour programme of the official Shri O. P. Mahajan and taxi requisition letter. But however the management has failed to produce any witness in support of the said documents especially in the peculiar circumstances of the present case. There is one Bill of M/S Tarsem Taxi Service for hiring Taxi No. HPZ 245 shown to have hired by the petitioner. The said bill is numbered 101 showing the starting meter reading of 70150 and closing meter reading 72450 undertaking the journey for 2300 kilometers whereas another bill of the same M/s Tarsem Taxi Service given to the Bank having the same Taxi No. HPZ 245 showing the starting meter 19722 and closing meter 19960 undertaking a journey of 238 kms. Taxi HPZ No. 245 hired by the petitioner shown to have driven by Bahadur Singh whereas Taxi HPZ 245 hired by the bank driven by the person B. S. Rana. In both the bills there is dissimilarity so far the names of the drivers are concerned and starting and closing meters and kilometers undertaken. In order to clear the position and to unfold the mystery it was incumbent for the management to produce the taxi owner who was the only witness who could unfold the mystery for having used the same taxi number HPZ 245 by two different persons at the same time. The management was rather heavily burdened to prove the same while producing the taxi owner. The non-production of the material witness in this regard has not only caused a utmost prejudice to the petitioner but at the same time has left the matter unresolved. It has been held in *Rafinder Kumar Kindra Vs. Delhi Administration* reported in AIR 1984 Supreme Court page 1805 that it is well settled that where the findings

of misconduct is based on no legal evidence and the conclusion is one to which no reasonable man would come, the arbitrator appointed U/S 10A and Court in appeal under Article 136 can reject such findings as perverse. It has also been observed that it is equally well settled that where the finding based on no legal evidence and the findings are either ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stand vitiated. The industrial tribunal or the arbitrator or a quasi judicial authority can reject not only such findings but also the conclusion based on no legal evidence or if it is merely based on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind. Therefore, the documents produced by the bank can not be used against the employee proceeded against as the scribe of these documents has not produced and opportunity cross examine the concerned person have not been afforded.

7. The management no doubt has made an attempt during the course of enquiry by producing the receipts for payment of toll tax at Shahabad Markanda in relation to Taxi No. HPZ 245 in order to strengthen that the bank infact had hired Taxi No. HPZ 245 but the same is no help to the management for two reasons. Firstly the petitioner had also applied to the SDE Shahabad for the issue of duplicate toll tax of HPZ No. 245 for dated 5-4-1984 and 11-4-1984. However in pursuance of this letter he was conveyed that the said record of the toll tax barrier Shahabad is under police control and can not be shown to any body till the enquiry is completed. No doubt this attempt was made by the petitioner but it was incumbent upon the management to procure the record of the toll tax barrier Shahabad afterwards in order to show that there was no toll tax paid on 5-4-1984 and on 11-4-1984 because the burden lies on the management to prove the guilt of the petitioner and it is not the duty of the petitioner to prove his innocence. Secondly SDE also intimated that there is a possibility of passing of light vehicle such as cars/matador/four wheeler/tractors through old bridge without paying any toll tax. Therefore, the benefit of such situation would go to the petitioner and not to the management especially in the circumstances that the management had not taken any steps later on to procure the toll tax receipts in order to dislodge the claim of the petitioner. The findings of the enquiry officer that the petitioner if had not paid toll tax and why he had applied for the duplicate receipts of toll tax is without any merits in the circumstances disclosed above.

8. Enquiry officer has given much weight to the petrol bills submitted by the petitioner during the course of the enquiry of M/S Hari Chand and Company Delhi for the purchase of 40 ltrs of petrol on 6-4-1984. Enquiry Officer has observed that it is not difficult to obtain such bill. The said observation can not constitute any proof untill and unless the said bill is proved to be false, and to prove that the bill is fake the burden is on the management in which they have miserably failed. Enquiry Officer has also observed that the petrol is not to be purchased by hirer but by taxi owner because taxi owner is paid the fare according to the kilometers covered. This observation of the enquiry officer is again based on conjectures. It is not to be forgotten that the petitioner had submitted his bill for re-imbursement he had never attached the said bill of M/S Hari Chand & Company. It is only in the eventuality that the departmental enquiry is pending against the petitioner, the petitioner had no choice except to tender the same to strengthen his case that he had travelled by taxi. In this context any attempt made by the petitioner to produce the said bill from the taxi driver does not cause any dent to the defence of the petitioner. The bill has been perused. The way taxi number has been written it is clearly evident that first letter is '2' and not '3'.

9. Another feature in the present case in which the enquiry officer has shown much concern, the school certificate of Nitin Goel son of the petitioner wherein Nitin Goel has shown to have present on 9th and 11th April 1984. Enquiry Officer has observed that if at all the petitioner had travelled with family then his son Nitin Goel could not have present on 9th and 11th April 1984. This aspect has also not proved against the petitioner by the management during the course

of enquiry. Firstly the said certificate relied by the enquiry officer was placed by the management at the fag end of the enquiry without any opportunity to the petitioner to rebut the same. However in the present proceedings by way of additional evidence the petitioner had examined the Principal of Indian Public School for the reason that the petitioner himself was in possession of other certificate Ex. 'X' showing that the school cannot confirm whether the child was on leave or absent or present on 9th and 11th of April 1984 as there is an over writing on these two dates on the attendance marks. The position has been clarified by the principal who has stated that there is overwriting on the dates 9th and 11th of April 1984. He has also deposed that it seems that in such dates initially the word 'L' is there and subsequently with different ink made 'P'. According to him the child was on continuous leave from 4th April to 11th April 1984. He was subjected to cross-examination by the management. Nothing useful has come favouring the management's stand. Therefore, the finding of the enquiry officer in this respect is also wrong for the reasons mentioned above.

10. Enquiry officer has also shown much concern in relation to the way the petitioner has filled his bill of L.F.C. He has observed that the petitioner had mentioned that he reached Mount Abu at 8PM on 11-4-1984. He started backward journey to Chandigarh at 7 PM on 9-4-1984 i.e. two days before he actually reached Mount Abu. I am also not convinced with the view of the enquiry officer in this regard. The bill of the petitioner is to be read as a whole. In para 8 of the bill he has categorically stated in column visited and distance in kilometers wherein the name of the place visited is mentioned as Mount Abu and distance covered is 1120 Kms (One way). In column No. 9 the day and departure has shown to be 5-4-1984 at 7AM. No doubt he has filled column No. 10 relating to time and arrival at the place visited on 11-4-1984 but this is merely due to inadvertance, lapse and can be lack of knowledge because in the following column No 11 meant for time and departure at the place visited, he has categorically mentioned 9-4-1984 at 7PM. Therefore, nothing hinges on this which may be any disadvantage to the petitioner.

11. However on the contrary the petitioner has adduced sufficient evidence in the present proceedings while producing taxi driver Bahadur Singh WW1 who filed his affidavit Ex. W1. The petitioner has also produced WW3 Sharif Khan. The motor mechanic who filed his affidavit Ex. W4 in evidence. Bahadur Singh in his affidavit Ex. W1 categorically stated that from the period 5-4-1984 to 11-4-1984 he drove taxi HPZ 245 from Chandigarh to Mount Abu visiting Bagpat, Delhi and Jaipur. He has also deposed that during this period his taxi also went out of order and got repaired. He was also subjected to cross-examination but nothing has been brought out from his cross-examination which favours the management. In the cross-examination he also admitted to the extent that he drove taxi from 5-4-1984 to 11-4-1984 to Mount Abu as he took Ghanshyam's family to Mount Abu. Similar is the statement of Sharif Khan WW4 a motor repairer of Mount Abu. He admits in his affidavit Ex. W3 that on 9-4-84 he replaced Taxi No. HPZ 245 and charged Rs. 190. He also admits that the contents of the affidavit was read over to him and then he signed the same as it was typed in his presence and instructions. He has also admitted that he gave the repair bill to Ghanshyam two years ago. He has also explained that his bill book is blank pertaining to bill No. 64 to 200 since he had gone out to Saudi Arabia. The management has not been able to rebut the evidence of the said person by counter evidence. The affidavit of Kashmira the owner of M/S Tarsen Taxi Service was no doubt filed by the management but they could not produce her in order to authenticate the affidavit result thereof the evidence of the management the affidavit result thereof the evidence of the Court. The evidence of the management is also in the shape of luke warm. MW2 S. K. Wadhawan is the management's witness. He filed his affidavit Ex. M14. It is only a two lined affidavit wherein he has only deposed that he is aware of the facts and all the enclosures to the reply filed by the bank are true copies. The only enclosure filed by the bank along-with reply is the enquiry proceedings. This witness has not even cared to depose in relation to the fairness of the enquiry and the opportunity given to the petitioner. With all

this as has been discussed above indicate that the enquiry proceedings and the way the evidence led by the management in the present proceedings is in the callous manner.

12. Therefore, in view of the discussions made in the earlier paras, the whole enquiry is based on no legal evidence and suffers from additional infirmity and total non-application of mind and the findings of misconduct based on total absence of evidence must fail, therefore, enquiry conducted against the petitioner stands vitiated.

13. The management has not taken any plea in the written statement that in event the tribunal coming to the conclusion that the enquiry is bad in the eyes of law, they be allowed to lead evidence in support of the fairness of the enquiry. Therefore, now it is closed chapter for the management in view of the ratio laid down by the Hon'ble Supreme Court in Shambhu Nath Goel Vs. Bank of Baroda reported in 1983 LIC page 1617. Consequences thereof the relief of reinstatement to the petitioner must be granted. Therefore, order of dismissal is set aside and the petitioner thus ordered to be reinstated in service with full back wages and all consequential benefits.

Chandigarh.

30-4-1994.

ARVIND KUMAR, Presiding Officer

नई दिल्ली, 12 मई, 1994

का.आ. 1370.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उक्त अधिनियम की धारा 33क के प्रत्यंगत डायरेक्टर' आई.आई.एच., बैंगलौर के प्रबन्धन के विरुद्ध श्रीमती के. रानी द्वारा दायर एक प्रार्थना पत्र के संबंध में अनुबंध में तिरिण्ट केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलौर मध्यस्थ के पंचाट को प्रकाशित करती है, जो कि केन्द्रीय सरकार को दिनांक 4-5-94 को प्राप्त हुआ था।

[संख्या जैड-13011/2/94-आई.आर. (डी.यू.)]

के.वी.बी० उन्नी, डैस्क अधिकारी

New Delhi, the 12th May, 1994

S.O. 1370.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Industrial Tribunal, Bangalore in respect of a complaint u/s. 33 A of the said Act led by Smt. K. Rani against the management of Director, I.I.H.R., Bangalore which was received by the Central Government on 4-5-1994.

[No. Z-13011/2/94-IR (DU)]
K. V. B. UNNY, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated this 25th day of April, 1994

PRESENT :

Shri M. B. Vishwanath, B. Sc., B. L.,
Presiding Officer.

COMPLAINT NO. 1/91

Complainant,
Petitioner

V/s.

Respondent/
Opposite party

K. Rani @ N. U. Rani,
C/o. The Secretary,
Coor Distt. General
Workers Union,
Virajpet,
Kodagu Distt. 571 218.

(Shri Asranna, Authorised
representative).

Director,
I. I. H. R.
No. 255, Upper
Palace Orchards,
Sadashivnagar,
Bangalore-560 080.

(By Shri R. Nagar
Advocate).

ORDERS

This is a complaint/petition under Section 33-A of the I. D. Act filed by the petitioner/complainant Rani against the respondent/Opposite Party Director, I.I.H.R.

2. In the complaint the complainant/petitioner has stated :—

The opposite party has contravened the provisions of Section 33 of the I.D. Act. The complaint is a workman in reference C. R. No. 28/88 on the file of this Tribunal. The complainant joined the service as casual labourer in 1979 in the Central Horticultural Experiment Station, Chettatty, Kodagu Distt. After some time she qualified in English Typewriting and shorthand. On being qualified she was posted to work in the office and in the laboratory as Assistant. As the posting being on casual basis her name continued to be in the casual list to be regularised as and when occasion arose. With effect from 23-7-1989 on account of her ill health she applied for leave and was absent. On recovery after four months she reported for duty. On reporting for duty in November, 1989, she was told that she remained terminated from service because of her absence. Her name was removed from rolls since November, 1989. Thereafter her personal representations to provide work were of no consequence. The dispute raised before the R.L.C. Bangalore ended in failure. The opposite party has struck off the name of the complainant from the rolls for her continued absence. This termination amounts to retrenchment. The conditions of retrenchment have not been complied with. The termination was for misconduct. So the opposite party should have taken approval of this Tribunal under Section 33-2(b) of the I. D. Act.

3. The termination being not legal the complainant has to be reinstated. In the clerical staff with backwages, continuity of service and other consequential benefits.

4. The opposite party in its counter statement dated 20-6-1991 has stated :—

In the complaint before the Regional Labour Commissioner the complainant claimed that she joined clerical post on daily wages. But in the present complaint she has stated that she joined the service of the opposite party as casual labourer and later on worked in the office and in the laboratory as assistant. In the complaint before the R.L.C. she has stated that her services were terminated on 21-7-1989, but in the present complaint she has stated that her services were terminated in November, 1989.

5. Complainant joined as casual labourer in January, 1979 and continued in the same post and was given the work normally given to other casual labourers engaged at the station. She was paid same daily wages as other casual labourers and her name appeared in muster roll and acquaintance alongwith other casual labourers. The complainant has not worked as a member of the clerical staff or in the laboratory. The certificate issued by Dr. S. P. Singh, Scientist, that complainant has sufficient working knowledge in the office work and she has worked in the laboratory is false. In the work assignment registers maintained and approved by Dr. S. P. Singh himself, the complainant was given garden work. The certificate issued by him bears no despatch or diary number. He has issued it on the last working day, may be to help the complainant. The 2nd certificate issued by K.A. Nanaya is also not correct. It appears to have been issued to help the complainant. Complainant has not worked as a clerk and in the laboratory as Assistant. As a casual labourer complainant can be regularised only in Group 'D' post and not in Group 'C' post.

6. Complainant initially applied for one month casual leave from 24-7-1989 to 23-8-1989 which was extended by another month from 24-8-1989 to 23-9-1989. Thereafter she unauthorisedly remained absent for two months without any leave application. After 4 months i.e., on 24-11-1989 she came for duty (did not attend muster roll or attend work) but appealed to Head that she may be provided job in the office or laboratory and further she may be permitted to come 15 minutes late everyday in the morning so that she can travel on her husband's scooter to office as her husband is also employed at the station as technician-4. The opposite party refused to accept the request of the complainant. She was given 6 days time to report for duty. She was told

that if she failed to report within 6 days termination proceedings will be initiated. Complainant never came for duty thereafter. The name of the I party was deleted from the muster roll w.e.f. 1-12-1989. The removal does not amount to retrenchment. The award in C. R. 28/88 was delivered on 30-8-1989. Section 33 of the I. D. Act is wholly inapplicable to the present proceeding. The complainant is not entitled to any relief.

7. The complainant has filed rejoinder dated 31-10-1991, re-affirming her statement or allegations made in the complaint. The certificates given by the Officers are valid. The complainant made representations to post her to office work on casual basis as was done earlier. But the opposite party remained silent. Hence the R.L.C. was approached. Sec. 33-A is applicable. Though the award in C.R. 28/88 was passed on 30-8-1989 it became effective 2 months after the date of publication in the official gazette. As the award was not in force as on the date of termination the cause of action has arisen during the pendency of dispute in C. R. 28/88. Therefore the complaint is in order.

8. On behalf of the complainant, the complainant C.W. 1 and one Rachaiyah, C.W. 2 who has been working in the opposite party, have been examined. On behalf of the opposite party, R.W.1 Dr. Purohit Principal Scientist has been examined.

9. This is a complaint under Section 33-A of the I. D. Act. The present complainant/petitioner Smt. Rani was one of the I party workmen in C.R. 28/88 on the file of this Tribunal. This C. R. 28/88 has been disposed of by my Learned Predecessor on 30-8-1989. He has passed the award on 30-8-1989. It is clearly stated by the complainant in her complaint that her name was removed from the rolls since November, 1989. Section 33-A can be invoked only when an employer contravens Section 33 of the I. D. Act during the pendency of the proceedings before the Labour Court or Tribunal.

10. It has been laid down by the Supreme Court in AIR 1968 S. C. 231 (Syndicate Bank Ltd., V/s. K. Ramanath V. Bhat) that if Industrial dispute is not shown to be pending at the time when the order of dismissal was passed, complaint under Sec. 33-A is not maintainable.

11. It is absolutely clear that when the name of the complainant was removed from the rolls in November, 1989 C. R. 28/88 was not pending before this Tribunal.

12. C.W. 2 Rachaiyah who has been working in the opposite party/respondent at Chottgali has stated that he knows the complainant and that she has not been working since 24-7-1989. The Learned Trade Union Leader argued that the say of C.W. 2 that complainant had not been working since 24-7-1989 had not been challenged in cross-examination and so if the date 24-7-1989 is taken into consideration C.R. 28/88 was pending. This argument cannot be given any weight because her name has been struck off from the muster rolls only w.e.f. 1-12-1989.

13. At the time of arguments, it is argued by the Learned Trade Union Leader Shri Asranna that the services of the complainant were terminated on 24-7-1989. But this statement cannot be accepted because it is clearly stated, to repeat, in the complaint that when she reported for duty in November, 1989 she was told, "her name was removed from the rolls since November, 1989".

14. The muster roll Ex. R. 1 produced by the opposite party also shows at page 21 that the name of complainant has been marked absent during November, 1989. This means that the name of complainant has been struck off from the rolls from 1-12-1989. In any view of the matter the C.R. 28/88 was not pending before this Tribunal when the name of complainant was struck off from the rolls.

15. It is argued by the Learned Trade Union Leader that the award in C. R. 28/88 becomes effective two months after it is published in the official gazette. The award has been published in the official gazette dated 14-10-1989. What is stated so far also shows that on the date of termination of the services of the complainant, C. R. 28/88 was not pending before this Tribunal.

16. The Learned Trade Union Leader relied on two leave applications Exs. R. 7 and R. 8 submitted by the complainant to the respondent. In Ex. R. 7 she has stated

that she is unable to attend to work from 24-7-1989 and has prayed for leave upto 24-8-1989. In Ex. R. 8 she has extended the leave upto 23-9-1989. Even if it is taken that the complainant was on leave of absence upto 23-9-89, it will not be of any help to the complainant because her services have been terminated w.e.f. 1-12-1989 as per Ex. R. 1.

17. The next argument maintained by the Learned Trade Union Leader was that the order of termination had not been communicated to the complainant. In this regard he relied on AIR 1970 Supreme Court 214 (State of Punjab V/s. Khemiram). In this it was laid down by the Supreme Court that the order of suspension passed against the Government Servant takes effect from the date of communication and not from the date of actual receipt. This authority has no application to the facts of the present complaint because the Supreme Court was pleased to interpret the word 'communicate' as used in the Punjab Civil Services (Punishment and Appeal) Rules.

18. The Learned Trade Union Leader did not bring to my notice any provision or rule under I. D. Act which says that if the name of a casual labourer is struck off from the rolls it should be communicated to the concerned casual labour.

19. The Learned Trade Union Leader relied on 1991 (1) C.L.R. 460 (T. A. Benny V/s. Rajasthan Co-operative Dairy Federation Ltd.). This authority has been rendered by the Rajasthan High Court in a reference made to the Tribunal, while interpreting Sec. 25-F of the I. D. Act and the point equal pay for equal work. This authority has not been rendered under Sec. 33-A or Sec. 33 of the I. D. Act and so it is not applicable.

20. For the aforesaid reasons, I am of opinion, the complaint/petition is not maintainable.

21. The complaint/petition has to be rejected on yet another ground. As has already been stated in C. R. 28/88 the complainant alongwith 80 others were the members of the I party. They were all casual labourers. The points for adjudication as per schedule in C. R. 28/88 are :

"Whether the following demands by the Coorg District General Workers' Union are justified ? If yes, to what relief the concerned workmen are entitled to ?"

1. for regularisation of services of 81 temporary workers (mentioned in Annexure) appended hereto,
2. for providing rain-coats and other protection materials to the workers and
3. for providing medical facilities at HESI, Chettahalli ?"

In the present complaint, the complainant has prayed that her termination cannot be sustained and that "she should be reinstated as clerical staff with back wages etc." because she has been doing the work in the office. What emerges is that the prayer in the present complaint under Sec. 33-A was not involved for adjudication in C. R. 28/88 before this Tribunal.

22. It has been laid down in AIR 1988 Rajasthan V/s. Industrial Tribunal and another that "Where the dispute pending before the Tribunal was with respect to a claim for bonus for the years 1953-54 and 1954-55, and an employee made a complaint under Sec. 33-A regarding deduction of his wages for 1955-56 the complaint cannot be said to be connected in any way with the pending dispute within the meaning of Sec. 33(1)(a) and the complaint is not maintainable under S. 33-A because there is no contravention of the provisions of S. 33(1)(a).

23. For the aforesaid reason the complaint/petition is not maintainable.

24. The complaint has stated in her evidence that she joined opposite party in 1979 on daily wage basis. She has stated that in the beginning she was working work in despatch, receipt section. Attending to imprest bills in the cash section. She has stated that she was preparing other bills also and was doing other works in the office. She has stated that in 1981 she passed Jr. English typewriting and so they were giving typing work in the office. She has stated that

in 1986 she passed Sr. English Typewriting. Then regular typing work was assigned to her in the office. She has produced relevant certificates. She has prayed in the complaint that she should be reinstated in the clerical staff with back-wages, continuity of service etc. I have set out above the points for adjudication in C. R. 28/88. I have stated that the complainant was a casual labourer. In the present complaint she wants to be reinstated as a clerical staff. R.W. 1 Perohith, Principal Scientist of respondent/opposite party has stated in his evidence that at no time the complainant worked in the office in any capacity and she has not worked as a typist or clerk or laboratory assistant. Thus the stand of complainant is seriously disputed by the opposite party.

25. In my opinion, what could be the point for adjudication in a reference under Sec. 10 (2-A) (1) (d) of the I. D. Act cannot be made the subject matter in a complaint under Sec. 33-A of the I. D. Act.

26. The Principal Scientist R. W. 1 has stated in his evidence that before the Labour Commissioner they had agreed to take back the complainant as a casual labourer without back wages. He has further stated that this offer holds good even now. I am sure the complainant will make use of this opportunity and the opposite party will take her back as a casual labourer if she reports for work as a casual labour.

27. All other documents and evidence not referred to by me are not relevant. In any case they do not alter conclusions reached above.

28. For the aforesaid reasons, the complaint is rejected. No costs.

(Dictated to Stenographer, typed by him, corrected, signed by me and pronounced in Open Court on this 25th day of April, 1994).

M. B. VISHWANATH, Presiding Officer,
Bangalore.

नई दिल्ली, 17 मई, 1994

का. आ. 1371—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की द्वारा 17 के अनुसरण में एस सी सी लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-22012/237/88-डी-4(बी)]
के.वी.बी. उन्नी, डैस्क अधिकारी

New Delhi, the 17th May, 1994

S.O. 1371.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-1994.

[No. L-22012/237/88-D.IV(B)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT:

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-J
Dated, the 19th day of April, 1994
Industrial Dispute No. 49 of 1989

BETWEEN

Y. Pochaiah S/o Ankaiah,
aged about 35 years, C/o Rajaiah Hotel,
near Super Bazar, Godavarikhani,
Karimnagar District. . . Petitioner.

AND

The General Manager, Area-I,
Ramagundam Division, Singareni
Collieries Company Limited,
Godavaikhan. . . Respondent.

APPEARANCES :

Sri A. K. Jayaprakash Rao and others counsels—for the Petitioner.

Sri K. Srinivasa Murthy and others, counsels—for the Respondent.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-4-2012(237)/88-L.A.V.B, dated 4th July, 1989 referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Singareni Collieries Company Limited, Area-I, Ramagundam Division and their workmen to this Tribunal for adjudication :

"Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Area-I, Ramagundam Division, P.O. Godavarikhani District Karimnagar (A.P.) in dismissing Sri Y. Pochaiah, General Mazdoor, Auto Workshop w.e.f. 17th November, 1985 is justified? If not, to what relief the workman concerned is entitled?"

This reference was registered as Industrial Dispute No. 49 of 1989 and notices were issued to both the parties.

2. The brief facts of the claim statement filed by the Petitioner workmen read as follows : The petitioner was appointed as General Mazdoor in the Respondent in 1975 and put in unblemished record of service till he was illegally dismissed from service by the Respondent by an order dated 17th November, 1985. Petitioner submits while imposing the punishment the Respondent has failed to take into consideration the quantum of punishment to be imposed on the petitioner but imposed the maximum punishment of dismissal from service which is shockingly disproportionate and do not commensurate with the gravity of the charge alleged to have been proved against the petitioner. That while he was working under the control of the Respondent he applied for two days leave for 14th and 15th July, 1985 and thereafter he fell sick and the Medical Officer of the Singareni Collieries Company Limited Ramagundam examined the petitioner and declared that the petitioner is unfit to discharge his duties from 17th July, 1985 to 23rd July, 1985. Since there was no improvement, he has taken treatment from Dr. R. R. Parya at Warangal from 24th July, 1985 to 6th December, 1985. The petitioner submits the Respondent having received the Telegram from the petitioner did not send any communication to the petitioner with regard to the sanction of leave or otherwise. The petitioner submits he has received orders of dismissal dated 17th November, 1985. Before passing the orders of dismissal the Respondent has not issued any charge sheet nor the petitioner received any notice of enquiry from the Enquiry Officer. The orders of dismissal passed by the Respondent is in violation of the principles of natural justice as the Respondent has not issued any charge sheet nor called for the explanation of the petitioner. The petitioner therefore submits the action initiated against the petitioner by the Respondent is in violation of principle of natural justice. The petitioner further submits since he was facing untold hardship in maintaining himself and his family members the petitioner

was left with no other alternative except to withdraw the P.F. amount and Gratuity amounts for the survival of the Petitioner and his family members. The petitioner submits the Management informed him by a letter dated 8th August, 1988 that in the Committee constituted for reviewing the cases rejected the claim of the petitioner. The action of the Respondent in imposing the maximum punishment of dismissal from service is only an act of victimisation and unfair labour practice. He has not committed any misconduct and the circumstances explained him are objectively considered there exists a reasonable cause and do not merit the maximum punishment of dismissal from service. While imposing the maximum punishment of dismissal the Respondent has failed to take into consideration the past conduct of the petitioner into consideration and therefore the orders of dismissal passed by the Respondent is contrary to the Supreme Court orders. The petitioner, therefore prays that this Hon'ble Court may be pleased to set aside the orders of dismissal passed by the Respondent and grant him the relief of reinstatement into service, with continuity of service, full back wages and all other attendant benefits.

3. The brief facts of the counter filed by the Respondent is read as follows : It is submitted that Sri Y. Pochaiah, ex-General Mazdoor was appointed in the Company during the year 1975. Since there was no improvement in his attendance Sri Y. Pochaiah has been issued with a charge sheet for having been absenting from duty without leave of permission or any intimation from the date 16th July, 1985 to 5th August, 1985. Enquiry has been conducted, charges were proved and taking into consideration of his past record, management applied its mind and Sri Y. Pochaiah was dismissed from service with effect from 17th November, 1985. The dismissal has been affected after conducting an enquiry. Further it can be stated that there was no extenuating factors warranting lesser punishment than that of dismissal to Sri Y. Pochaiah who had never put up satisfactory attendance. The further allegation is shockingly disproportionate and also done commensurate with the gravity of the charge alleged to have been proved against the petitioner is also not correct. It is true the petitioner Y. Pochaiah was sanctioned two days casual leave on 14th and 15th July, 1985 but thereafter he absented from duty without further leave, now information was received that he was sick. Further the petitioner has never sent any intimation that he was under treatment of Dr. R.R. Faria, Warangal from 24th July, 1985. In fact, the Respondent has not received any telegram from the petitioner nor has he asked for permission. It is submitted that the petitioner has been dismissed from the Company services from 17th November, 1985 since he was continuously absenting from duty from 16th July, 1985 for more than ten days, a charge sheet dated 5th August, 1985 has been issued under Company's Standing Orders, Clause 16(16). As he was not attending the duty, the charge sheet has been sent to his permanent home address on 8th August, 1985 by Registered Post with Ack. Due. The envelop bearing the charge sheet has been returned undelivered with remarks of the Postal authorities that the party is not in the house, hence returned. The charge of continuous unauthorised absenteeism without satisfactory cause from the date 16th July, 1985 to 23rd October, 1985 is sufficiently proved. There upon taking into consideration of his past record showing unauthorised absence on his part, the petitioner has been dismissed from service. The dismissal order has also been sent to his permanent home address and local address by Registered Post with Ack. Due. But the envelope bearing the dismissal order was returned with the postal endorsement that the party was not available. In this case the Respondent sent charge sheet and notices to the address given by the Petitioner and they were returned the endorsement of postal authorities "the party is not in the house, hence returned" and "the party was not available". It is submitted in view of the petitioner making allegation that the enquiry was not conducted as per the principles of natural justice, this Hon'ble Tribunal may be pleased to decide the validity of the domestic enquiry as preliminary issue before examining the merits of the case. It is submitted that the petitioner has personally received the dismissal order on 8th December, 1985 in the office of the Sr. E.E., Auto Workshop. It is submitted that a review has been held by the Management in all the cases of dismissal for absenteeism from 1st January, 1985. It is true the petitioner has filed mercy petition on 18th January, 1986 to the General Manager, R.G.I and Chairman & Managing Director respectively. In this mercy petition dated 18th January, 1986 received on 9th February, 1986 the petitioner submitted that he was admitted in MGM Hospital, Warangal

for the period from 24th July, 1985 to 16th December, 1985 and also intimated to the concerned authorities of his reported admission to the said hospital through a Telegram No. 1430, dated 7th September, 1985. The petitioner is not entitled for the relief prayed i.e. either for reinstatement or back wages along with all other benefits. In view of the above mentioned facts this Honourable Court may be pleased to dismiss the petition.

4. The point for adjudication is whether the action of the Respondent in dismissing Sri Y. Pochaiah, General Mazdoor w.e.f. 17th November, 1986 is justified or not?

5. M.W3 and M.W4 were examined on behalf of the Respondent-Management and marked Exs. M13 to M25 (this is after preliminary issue).

6. Before going into the merits of the case, this Tribunal decided the issue on preliminary point whether the domestic enquiry conducted by the Respondent-Management is fair or not? This Tribunal passed Order on 11th June, 1993 holding that the domestic enquiry conducted by the Respondent-Management as improper and vitiated.

7. After the preliminary point, this case is kept up on merits—M.W3 is M. Murali Mohanchari. He deposed that the charge sheet of employee dated 28th April, 1985 is Ex. M13. Sri Y. Pochaiah received and signed on the charge sheet. Ex. M13. One M. Rama Mohan Rao was the Enquiry Officer and Ex. M15 is the enquiry proceedings for the year 1984. Ex. M17 are the connected papers of the past record with regard to unauthorised absence and enquiries conducted. They have filed Ex. M23 to show that they have not received any alleged telegram as contended by the petitioner.

8. M.W4 is C. Chandra Mohana Rao. In brief he deposed that when he was working in Auto Workshop of Ramagundam I as Sr. Executive Engineer Y. Pochaiah was working under him. For absenteeism, the Management has taken disciplinary action and issued charge sheet Ex. M4. According to company rules, if there is any change of address, the employee has to inform the new address. Sri Y. Pochaiah has not given any change of address. Ex. M20 to M22 are the leave registers. Outside Doctors certificate are not taken for consideration of fitness and by any reason if any employee got any such certificate he will once again be referred to the Area Hospital for obtaining fitness certificate to take him on job. It is a statutory requirement under the Mines Act. The petitioner has not brought Ex. M2 nor he asked him on leave. The allegation of the petitioner that he came to him and that asked for the job and requesting for taking him on duty is not true. The petitioner has not reported for duty till his dismissal.

9. As already mentioned, this Tribunal passed an order on 11th June, 1993 holding that the domestic enquiry conducted by the Respondent-Management is improper and vitiated, on the ground that no opportunity was afforded to the petitioner-workman to attend the domestic enquiry or of giving explanation to the charge sheet, or that the Enquiry Officer should have ordered for paper publication for the petitioner to attend the domestic enquiry when the notice was not received by the petitioner-workman. Further the Respondent-Management passed the order of dismissal of the petitioner from service is shockingly disproportionate to the gravity of the misconduct committed by the petitioner workman which is not in commensurate with the misconduct. I find that the petitioner do not merit the maximum punishment of dismissal from service. Therefore the orders of dismissal passed by the Respondent-Management is vitiated with material irregularities and the same is not sustainable in law.

10. In the result, the action of the Management of M/s. Singareni Collieries Company Limited, Area-I, Ramagundam Division P.O. Godavarkhani District Karimnagar (A.P.) in dismissing Sri Y. Pochaiah, General Mazdoor, Auto Workshop w.e.f. 17th November, 1986 is not justified. Sri Y. Pochaiah, General Mazdoor is entitled to be reinstated into service with full back wages, continuity of service and all other attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 19th day of April, 1994.

Y. VENKATACHALAM, Industrial Tribunal-I

Appendix of Evidence

Witnesses Examined on behalf of the Respondent/Management:

M.W1—M. Ram Mohan Rao.

M.W2—C. Chandra Mohan Rao.

M.W3—M. Murali Mohana Chari (after P.P.).

M.W4—C. Chandra Mohan Rao (after P.P.).

Witnesses Examined on behalf of the Petitioner/Workmen:
W.W1—Y. Pochaiah.

Documents marked for the Respondent/Management:

Ex. M1/18-8-85—General Authorisation issued by the Agent, GDK No. 5 & 5A Incline to Sri N. Ram Mohan Rao, Personnel Officer to conduct domestic enquiry from 19th August, 1985 to 1st September, 1985.

Ex. M2/5-8-85—Copy of the Charge Sheet issued by Sri E.E. (Auto Workshop & Transport) RG to Sri Y. Pochaiah, General Mazdoor.

Ex. M3—Returned cover with Ack. Due addressed to Sri Y. Pochaiah.

Ex. M4/5-8-85—Charge Sheet issued by Sri E.E. (Auto Workshop & Transport) RG to Y. Pochaiah, General Mazdoor.

Ex. M5—Form 'E' Register from April, 1985 to December, 1985.

Ex. M6—Pay Sheet for the month of July, 1985.

Ex. M7—Pay Sheet for the month of August, 1985.

Ex. M8—Enquiry Proceedings.

Ex. M9—Enquiry Report.

Ex. M10—Letter No. PRG. I/32C/3135, dated 17th November, 1985 with regard to dismissal from service of the Petitioner.

Ex. M11—Returned postal cover.

Ex. M12—Returned Postal Cover.

Ex. M13/28-4-85—Charge Sheet dated 28th April, 1985 issued to Y. Pochaiah.

Ex. M14/25-11-84—Copy of the warned letter issued by the Senior Divisional Engineer (W.S.).

Ex. M15—Enquiry proceedings for the year 1984.

Ex. M16—Copy of the Warning Letter issued by Sr. Divisional Engineer (W.S.).

Ex. M17—Connected papers of Past record of Y. Pochaiah.

Ex. M18—Attendance Register.

Ex. M19—Attendance Register.

Ex. M20—Leave Register.

Ex. M21—Leave Register.

Ex. M22—Leave Register.

Ex. M23—Inward Register.

Ex. M24/8-12-85—Acknowledgement given by the Petitioner-Workman.

Ex. M25—Information sent by the Coal Mines Provident Fund authorisation reg. withdrawal of CMPPF Fund.

Documents marked for the Petitioner:

Ex. W1—Medical Unit Certificate.

Ex. W2—Fitness Certificate.

Ex. W3—Telegram Receipt.

नई दिल्ली, 17 मई, 1994

का. आ. 1372—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रभासरण में एस सी सी लि. के प्रत्यंपत्ति के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्णिय ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 17-5-94 को प्राप्त हुआ था।

[संख्या एस-22012/110/93-प्राइवेर (सी-2)
के बी.बी. उल्ली, डेस्क अधिकारी]

New Delhi, the 17th May, 1994

S.O. 1372.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 17-5-1994.

[No. L-22012/110/93-IR C-II]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL HYDERABAD-II. AT HYDERABAD

PRESENT :

Sri M. Venkata Raju, B.A.LL.B., Chairman

Dated, 21st April, 1994

Case No. I. D. 7 of 1994
(Central Government)

BETWEEN

The Secretary,
Singareni Coal Mines Karmika Sangh (BMS),
H. No. C-81, Near Andhra Bank,
Godavarikhani, Karim Nagar District Petitioner/
workman.

AND

The General Manager,
M/s. Singareni Collieries Co. Ltd.,
R.G. Area III, Godavarikhani,
Karim Nagar, District Respondent/Management

APPEARANCES :

Sri K. Vasudeva Reddy (Authorised Representative) appeared—for Petitioner/Workman.

AND

Respondent/Management remained ex parte.

AWARD

This is a reference made Under Section 10(1)(d) of Industrial Disputes Act, 1947 by the Government of India, New Delhi through its No. L-22012/110/93-IR (C-II) dated 16-2-94 for adjudication of the Industrial Dispute between the Management of M/s. Singareni Collieries Co. Ltd., Ramagundem, Godavari Khani, Karimnagar District, A.P., and their workman represented by the Secretary, Singareni Coal Mines, Karmika Sangham (BMS), Godavarikhani, Karimnagar District setting forth the point for consideration in the Schedule appended thereto as follows :

"Whether the action of the Management of M/s. Singareni Collieries Co. Ltd. Ramagundem, Area-III Godavarikhani in denying to offer appropriate grade to Sri K. U. Verghese E.P. Welder, Gr. I is legal and justified or if not to what relief the concerned workman is entitled to?"

This reference is registered on 28-2-94 as I. D. No. 7 of 94 in this Tribunal and the notices were sent to both the parties for their appearances.

The petitioner/workman appeared and engaged Sri P. Vasudeva Reddy Advocate, as their Authorised Representative and the Respondent/Management remained absent despite the services of the notice issued from this Tribunal. Hence the respondent/management was set ex-parte.

The petitioner has filed his claim statement stating that he has passed S.S.L.C., and I.T.I. in welding and in pursuance of his qualifications he worked as Welder at Heavy Vehicle Factory, Ministry of Defence, Avadi, Madras in the year 1972 and he resigned the post and went to Algeria and worked there as Pipe Welder and also worked as Welder in Singapore. After gaining experience in several organisations he joined A.I.G.C. Ltd., Ambattur on 14-4-1983 as Welder Supervisor and worked upto 7-8-1984. The Petitioner while working as Welding Supervisor at A.I.G.C. Ltd., Madras, he applied to the post of Welder Gr-I for Open Cast Mines at Godavarikhani, in pursuance of an advertisement in the Hindu Daily news paper made by the respondent and he appeared for interview to the said post and he was appointed as Welder under proceedings No. PRG/5-E/2096 dated 29-7-84. The pay scale was mentioned as 30.14-1.55-51.84. As the workman was new to the Respondent Company he was under the impression that he was appointed as Welder Gr-I and thought that he was given pay scale attached to the Welder Gr-I (Group-B). In proceeding No. PRG/5K/2292 dated 20-8-1984 and Proc. No. PRG/V/30/84/898 dated 23-8-1984, the workman was referred as Welder without mentioning either Group-I or Group-II. But while confirming his service by proceeding dated 15-1-1985 the workman was designated as Welder Group-C instead of "Group-B". It is further stated that the workman was successful in the test and also in the interview conducted for the post of Welder Gr-I (Group-B) but at no point of time he was informed that he was going to be appointed in a lower post or lower pay scale. He submitted several representations and the respondent company gave reply that he would be intimated by 29-4-1989. By proceeding dated Nil-11-1989 the respondent company informed the petitioner that he was selected as Welder in 1984 as he did not possess the skill required for Gr-I job and that he was appointed as Welder Gr-II and that he accepted wilfully. Immediately the petitioner submitted a representation to the Chairman and Managing Director of the Respondent Company and as he could get any positive result the petitioner Union, Karmika Sangham requested the Assistant Commissioner of Labour to settle the matter, and as the matter was not settled the failure report was sent to the Government.

The Respondent Company remained ex-parte and there was no rejoinder filed by the respondent company.

The following point is to be considered for passing the Award "Whether the action of the management of M/s. S.C.C. Ltd., Ramagundem Area-III, Godavarikhani in denying to offer appropriate Grade to Sri K. U. Verghese E.P. Welder Gr-I is legal and justified ? If not to what relief the concerned workman is entitled to ?"

The petitioner examined WW-1 witness and marked Exs. W-1 to W-26 documents. The respondent did not examine any witness.

POINT : It is to be considered whether the action of the respondent company in denying to offer Welder Gr. I to Sri K. U. verghese is legal and justified ? If not to what relief the employee is entitled to ? WW-1 the concerned workman has deposed that in pursuance of the advertisement Ex. W-7 he applied for the post of Welder Gr-I in the respondent Company while he was working on the handsome salary as Welder Welding Supervisor at A.I.G.C. Ltd., Madras, with his rich experience i.e., working 1 or 2 foreign countries, he was interviewed for Welder Gr-I (Group-B) and the respondent company also conducted practical tests before selecting him. He marked Exs. W-8 the proc. No. PRG/2/B/231 dated 30-2-1984 which is the interview letter for the post of Welder Gr-I. He was given appointment letter order Ex. W-9 as Welder in the respondent Company giving pay scale 30.14-1.55-51.84 but in Ex. W-7 advertisement the pay scale for Welder Gr-I was mentioned as Rs. 27.54-1.30-41.05. He also deposes that the pay scale were under revision as per Ex. W-7, and therefore that he was given revised pay scale of Welder Gr-I (Group-B). He was under the impression that

he was appointed as Welder Gr-I, Group-B because he appeared for the same interview and he was posted as Welder. He deposes that in Ex. W-12 dated 15-1-1985 it was mentioned for the first time that he was Welder (Group-C). As soon as he came to know about the mischief done by the respondent Company he submitted his representation Ex. W-13 dated 17-3-1983 similarly he submitted representations Ex. W-14, Ex. W-15 and Ex. W-16. As per Ex. W-17 he got reply from the Respondent Company stating that his representations were under examination. Therefore after he did not get any reply or any order, again he gave Ex. W-18 and Ex. W-19 representations, than he got Ex. W-20 record from the Director Personnel Administration Welfare of the respondent Company stating that he was selected as Welder in 1984 and offered Gr-II post as he did not possess the required skill for Gr. I job. Thus Ex. W-20 reply was given in the month of November, 1989. WW-1 deposes that neither he was offered Gr-II post nor he willingly accepted the same. He deposes further that had the respondent company offered him Welder (Gr. II) (Group-C) instead of Welder Group-B he would not have accepted the appointment and that he could not have resigned his previous post because he was getting higher pay scale than the Welder Gr-II (Group-C). Thus he deposes that gross injustice was done to him. It is argued on behalf of the petitioner that the respondent company deliberately suppressed the facts whether WW-1 was appointed in Gr-I or Gr-II at the time of his appointment. The other candidates got appointment letters for the post for which they applied, at that time WW-1 having good qualifications and experience applied for the post of Welder Gr-I in the respondent company in pursuance of the advertisement given. He was called for interview to the post of Welder Gr-I (Group-B) subsequently after joining the post he was given Welder Gr-II (Group-C). Thus it is argued that the appointment given to WW-1 is illegal and forced him to continue in Gr-II Welder post. But on a careful perusal of documents marked, claim statement and on evidence of WW-1 it is clearly established that in pursuance of advertisement given in Hindu i.e., Ex. W-7 the workman applied to Welder post Gr-I (Group-B) and he was interviewed conducting practical tests. In issuing orders Ex. W-9 keeping the workman on probation for a period of 3 months it was mentioned that he was appointed as Welder without mentioning either under Gr-I (Group-B) Gr-II (Group-C). Ex. W-9 was dated 29-7-1984 subsequently on 15-01-1985 the respondent Company issued office order Ex. 12 mentioning the designation and date of confirmation of the concerned workman (WW-1). As Welder (Group-C) in Ex. W-12 it is not shown whether the said post is of Gr-I or Gr-II after receiving the said office order WW-1 gave number of representations about the injustice done to him. As per the evidence placed before this Tribunal the respondent Company has not intimated or asked the concerned workman at any time before issuing Ex. W-12 order whether he was willing to join as Welder Group-C under Gr-II. Ex. W-8 shows clearly that the workman was called for the post of Welder Gr-I. The respondent Company cannot argue that because the workman joined the post and completed probation etc. he gave consent to the said post. On seeing Ex. W-12 the concerned workman sent representations to the management complaining the injustice done to him. They are exhibits W-14 to W-19. Had he accepted such wrong order of his appointment he would not have given such representations immediately complaining about the wrong order of his post. The respondent Company did not take any written consent or express agreement that the concerned workman accepted the posts of Welder Gr-II. WW-1 applied for the post of Welder Gr-I, he was interviewed and selected for the same post, he came away to the respondent company leaving his past service for the betterment of his career. The respondent Company should have intimated the concerned workman after test and interview that he was qualified only for Welder Gr-II post and should have also asked him whether he was willing to join in Welder Gr-II post. There is no such evidence before me to presume that the concerned workman accepted the post offered by the respondent company. Therefore I am of the opinion when once the workman has applied, interviewed and selected for Welder Gr-I post he cannot be appointed as Welder Gr-II. After completion of probation the respondent company mischievously issued Ex. W-9 office order without mentioning Gr-I or Gr-II just mentioning as Welder. The respondent/management cannot discriminate the persons who applied for the Welder Gr-I post and appoint them in 1358 GJ/94-5.

Gr II post. Hence the workman is entitled for the post of Welder Gr-I (Group-B) with effect from the date of his appointment in the respondent Company. The issue is held in favour of workman finding that he is justified to make such demand.

In the result an Award is passed with costs declaring that the concerned workman in this dispute is entitled for Welder Gr-I with effect from 28-8-1984 when he was appointed in the respondent Company, and the Tribunal directs the respondent Company to grant all consequential reliefs to the petitioner/workman from the said date.

Dictated to Steno/typist on this day the 21st April, 1984 transcribed by her, corrected by me, given under my hand and Seal of this Tribunal.

M. VENKATARAJU, Chairman
Industrial Tribunal,
Hyderabad-II.

APPENDIX OF EVIDENCE

WITNESSES EXAMINED

For Workmen :

1. K. U. Verghese—WW-1.

DOCUMENTS MARKED

- Ex. W-1/28-10-77—Is the Service Certificate issued by the General Manager, Heavy Vehicles Factory, Madras.
- Ex. W-2/ — —Is the contract of employment with Bachtel International INC.
- Ex. W-3/3-11-93—Is the Service Certificate issued by the Personal Manager, Jurong Engineering (P) Ltd.
- Ex. W-4/ — —Welder Qualification list record issued by the Jurong Engineering (P) Ltd.
- Ex. W-5/ — —Certificate issued by the American Bureau of Shipping.
- Ex. W-6/4-10-84—Resignation letter of Sri Varghese has been accepted by Work Manager, Acetyl leue and Industrial Gas Cylinders Limited.
- Ex. W-7/23-9-83—Paper Notification of the S.C.C. Ltd. Ramagundam.
- Ex. W-8/30-1-84—Is the Interview letter for the post of Welder Gr-I.
- Ex. W-9/29-7-84—Appointment letter of Varghese as a Welder.
- Ex. W-10/20-8-84—Office Order.
- Ex. W-11/28-8-84—Proceedings issued by the S.C.C. Ltd. Kothagudem.
- Ex. W-12/15-1-85—Office Order of 5 members who is completed probationary period.
- Ex. W-13/17-3-85—Letter addressed to the General Manager by the Varghese request to elevate to the Gr. interviewed.
- Ex. W-14/2-12-85—Reminder to Ex. W-13.
- Ex. W-16/14-2-89—Letter addressed to the Chief Administrative Officer by Varghese and five others.
- Ex. W-17/22-2-89—Acknowledgment of Ex. W-16.
- Ex. W-18/18-6-89—Requested letter addressed to the Director of Welfare and Administration.
- Ex. W-19/11-11-89—Letter addressed to the Director of Welfare by Varghese.
- Ex. W-20/ — —Reply to the Ex. W-18, by the Director Administration and Welfare.
- Ex. W-21/19-12-89—Letter addressed to the Chairman and Managing Director M/s. S.C.C. Ltd.
- Ex. W-22/9-7-92—Letter addressed to the Asst. Labour Commissioner by the Karmika Sangham.

- Ex. W-23/19-11-92—Minutes of conciliation proceedings between the Union Secretary and Personal Officer, Ramagundam.
- Ex. W-24/30-11-92—Letter addressed to the Secretary, Ministry of Labour, Government of India, New Delhi.
- Ex. W-25/16-2-94—Xerox copy of the reference.
- Ex. W-26/29-7-89—Office Order issued by the General Manager, Godavarikhani.

M. VENKATARAJU, Chairman
Industrial Tribunal

नई दिल्ली, 17 मई, 1994

का.प्रा. 1373—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में एस सी सी लि. के प्रबंधनमें के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-22012/57/91-आई आर (सी-2)]
के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 17th May, 1994

S.O. 1373.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-1994.

[No. L-22012/57/91-IR (C-II)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-I.
Dated, 16th day of April, 1994
Industrial Dispute No. 12 of 1991

BETWEEN

The General Secretary,
Singareni Collieries Workers
Union (AITUC), Kothagudem,
Khammam District (AP)-567101 Petitioner

AND

The Chief Personnel Manager,
M/s. S.C. Company Limited,
Khammam District (AP)-567101 Petitioner

APPEARANCES :

M/s. G. Bikshapathi, G. Vidyasagar and N. V. Raj,
Advocates—for the Petitioner.

M/s. K. Srinivasa Murthy, and G. Sudha, Advocates—
for the Respondent.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-22012/57/91-IR (C-II) dated 25-4-1991 referred the following dispute under Section 10(1)(d) (2-A) of the

Industrial Disputes Act, 1947 between the Management of Singareni Collieries Company Limited, Kothagudem and their Workmen to this Tribunal for adjudication :

"Whether the demand of Singareni Collieries Workers Union (AITUC), Kothagudem for confirmation of Sri A. Rajeswara Rao, Press Workman as Cylinder Machine Operator, M/s. S.C. Co. Ltd., Kothagudem in the resultant vacancy is justified? If not, to what relief is the workman entitled?"

This reference was registered as Industrial Dispute No. 12 of 1991 and notices were issued to both the parties.

2. The brief facts of the claim, statement filed by the Petitioner read as follows :—

Mr. A. Rajeswar Rao is working as Press Worker in Singareni Press, Kothagudem. He was appointed on 19-12-1979 as an Apprentice After completion of four months service, Management has paid stipend for a sum of Rs. 100.00 per month upto 12-8-1980. During this period he worked at Cylinder Machine. Then the Management placed him in Cat-I wages from 12-8-1980 with a designation of Press Worker after passing the interview held by the Management. Later he is attending full fledged work independently and regularly after put in 8 years as Assistant at Cylinder Machine. Mr. Rajeshwar Rao has been clearly authorised to operate Cylinder Machine from 30-5-88. He has been issued with the certificate that he is working as an Assistant to Cylinder Machine Operator vide letter dated 22-12-1986. Mr. R. Sambasiva Rao who worked as Cylinder Machine Operator on Grade-E was promoted to Grade-D resulting a vacancy of Cylinder Machine Operator arose. Hence Mr. Rajeshwar Rao is rightly entitled for confirmation as Cylinder Machine Operator with retrospective effect. The Management has violated the principles of natural justice by not confirming Mr. Rajeshwar Rao as Cylinder Machine Operator. Therefore it is prayed that the Hon'ble Tribunal to order the management to confirm Mr. R. Rajeshwar Rao as Cylinder Machine Operator with all benefits with retrospective effect.

3. The brief facts of the counter filed by the Respondent read as follows :—

It is respectfully submitted that the workman in dispute Sri A. Rajeswara Rao was appointed as Press Worker in office Order dated 12-8-1980 in Cat. I Wages. Sri A. Rajeswar Rao, workman is neither coming under the settlement nor has he passed the Trade Test or eligibility criteria to demand a higher grade post. The Petitioner was also given the Press Workman post (General Mazdoor) in Category I and he is discharging duties attached to that post. The Union herein raised a dispute that the workman should be promoted as Cylinder Machine Operator i.e. Machineman in 'E' Grade for which neither he acquired the skill nor he passed the prescribed qualification nor is he eligible for promotion to that post. Just because there is a vacancy available question of promoting to such post does not arise. Petitioner Union and workman dispute have no right to demand for a jump from Category I General Mazdoor post to the post of Machineman in Grade-E giving a direct promotion at fourth stage in promotional channel. It is also well settled principles of law that the promotions will be given to those employees who satisfy the eligibility criteria like qualifications prescribed experience in a certain post and pass the trade test and in the order of merit basing upon the available vacancies. That whenever an employee is discharging the duties in a particular category wages attached to that post are paid. The entire service record of the petitioner indicate that he is a Cat-I General Mazdoor, but never worked as a skilled worker. There are no merits in the Petitioner's case. In view of the above mentioned facts, this Hon'ble Tribunal may be pleased to dismiss the dispute and also reject reference.

4. The brief facts of the additional counter filed by the Respondent read as follows :—

He was working as General Mazdoor in Cat-I and his work in paper setting, cleaning and lubrication of the machines and other jobs like lifting the raw material finished goods, packing, loading and other miscellaneous jobs. There is no such work attached to a General Mazdoor to work as exclusively as Cylinder Machines Operator. Whenever a vacancy arises due to leave, absenteeism or because of exigency when the permanent machineman could not attend duty and there was some urgent work which can be done by a Press worker who is working for a long time and acquired knowledge and skill may be engaged to work as Machine Operator. The petitioner cannot compare his case with that of Sri R. Sambasiva Rao, Sri R. Sambasiva Rao is Machine Man and not a press worker and he has been upgraded from Grade 'E' to Grade 'D'. Even after upgradation to Grade 'D' still Sri Sambasiva Rao is doing the same job as Machine Operator and there is no change in his job. It is out of placed to mention that Sri Rajeswara Rao after completion of 10 years of service in Cat. I he was given Cat. II but he is not entitled for the post in 'E' Grade. Even the employee authorised to work in higher post as Operator are not having a vested right for an automatic promotion to the higher post. Management has already filed its counter and this Hon'ble Court may be pleased to read that counter filed on merits as part of this counter.

5. The point for adjudication is whether the demand of Singareni Collieries Workers Union, Kothagudem for confirmation of Sri A. Rajeswar Rao, Press Worker as Cylinder Machine Operator in the resultant vacancy is justified or not ?

6. WW-1 was examined on behalf of the Petitioner-workmen and marked Exs. W-1 to W-4. No oral or documentary evidence have been adduced on behalf of the Respondent-Management.

7. WW-1 is A. Rajeswara Rao, he deposed that he is the concerned workman in this case. He was appointed in the Respondent as apprentice trainee on 19-12-1977 and as Press worker from August 1980 and since 1981 he worked in Machine Section continuously till 1992, as Assistant Machine man. Ex. W-1 is xerox copy of service certificate dated 22-12-1986. Ex. W-2 is xerox copy of the authorisation letter dated 21-5-1985. Initially at the time of his appointment test and interview was conducted and he was selected for the post. He worked independently as Cylinder Operator occasionally whenever he was asked to work. Even though he worked as Cylinder Operator he was not paid acting allowance and after his insistence the management started paying acting allowance from 1989 onwards. The Management paid him first Category wages only. Ex. W-3 is the xerox copy of office order dated 29-2-1992 in which Mr. T. O. Kuriakose was promoted to Grade 'E' as Asst. Machine Man, and he is junior to him in press section as he is working in Press section from 1986. Mr. P. Rajalu was granted Grade 'E' from Category I and the said Mr. Rajalu and himself are appointed on the same day. The Mr. Rajalu and Kurkiakose were promoted to Grade 'E' but he was denied the same. Ex. W-4 is a copy of representation dated 16-9-1988 made to the Grievance Committee of the respondent. There was no reply from the Grievance Committee. He prays this Hon'ble Tribunal to direct the management to promote him as Cylinder Machine Operator with consequential arrears. The persons mentioned in Ex. W-3 have worked under him even after they were promoted to Grade 'E'.

8. The case of the Petitioner workman is that he is working as a Press Worker in Singareni Prss, Kothagudem, that after completion of four months apprenticeship period, the Respondent paid stipend for a sum of Rs. 100.00 per month upto 12-8-1980, that he has been interviewed by the Respondent during 1980 and accordingly he has passed the interview, then the Management placed him in Cat. I wages from

12-8-1980 with a designation of Press Worker, that he has been attending as Assistant at Cylinder Machine since eight years full fledged work independently and regularly, that he has been clearly authorised to operate Cylinder Machine from 30-5-1988. Further the contention of the Petitioner that one Sri R. Sambasiva Rao who worked as Cylinder Machine Operator on Grade-E was promoted to Grade-D resulting a vacancy of Cylinder Machine Operator arose and that the Petitioner workman is rightly entitled for confirmation as Cylinder Machine Operator with retrospective effect and that the Management has violated the principles of natural justice but not confirming the petitioner workman as Cylinder Machine Operator.

9. The allegation of the Respondent management it is true that the petitioner workman Sri A. Rajeswara Rao is working as Press worker in S.C. Printing Press, Kothagudem, a stipend of Rs. 100.00 per month was fixed from 1-4-1978 to 12-8-1980, from 12-8-1980 he was appointed in Cat-I post and wages were paid, that there is no such duty attached to the Cat. I Mazdoor to work at Cylinder Machine, that the Petitioner cannot compare his case with that of Sri R. Sambasiva Rao who is a Machine Man and not Press Worker and he has been upgraded from Grade 'E' to Grade 'D', that Rajeswar Rao is seeking the post of Sri R. Sambasiva Rao in E Grade to which he is not entitled to as the workman has not operated the Cylinder Machine independently. It is for the Respondent Management to look after into the attributes qualifications and experience of the persons while giving promotions to a higher post. There are no merits in this case.

10. At the very outset, I would like to mention that the Petitioner workman Sri A. Rajeswar Rao was appointed as Press Worker from August 1980 and since 1981 he worked in Machine Section continuously till 1992 as Assistant Machine Man. He was also authorised to work as Cylinder Printing Machine Man as per Ex. W-2 dated 21-5-1985 which is an authorisation letter. The petitioner was selected for the post after passing the test and interview conducted by the Respondent-Management. It is seen that the Respondent management started paying acting allowance from 1989 onwards to the Petitioner as he worked as Cylinder Operator. Ex. W-3 is the Office Order dated 29-2-1992 wherein Sri T. O. Kuriakose was promoted to Grade 'E' as Assistant Machine Man who is junior to the petitioner workman and similarly Sri P. Rajalu was granted Grade 'E' from Category I. It is seen that Sri Rajalu and the Petitioner workman were appointed on the same day. Thus the petitioner workman was denied promotion to Grade 'E'. It is also seen that the Petitioner workman made a representation dated 16-9-1988 to the Grievance Committee but there was no response to his representation. It is pertinent to note that the Petitioner-workman was examined in this Tribunal as WW-1 but the Respondent management has not cross examined him for the allegations made by the Petitioner-workman in the chief examination. I find that there is some merits on behalf of the Petitioner workman in seeking for promotion to Grade 'E' from Category I. Since Sri R. Sambasiva Rao, Cylinder Machine Operator on Grade 'E' was promoted to Grade 'D' resulting a vacancy of Cylinder Machine Operator, Sri Rajeswar Rao is rightly entitled for confirmation as Cylinder Machine Operator with retrospective effect. Hence I find that the principles of natural justice has been violated by the Respondent Management by not confirming Sri Rajeswar Rao as Cylinder Machine Operator.

11. In the result, the demand of Singareni Collieries Workers Union (AITUC), Kothagudem for confirmation of Sri A. Rajeswar Rao, Press Worker as Cylinder Machine Operator, M/s. Singareni Collieries Company Limited, Kothagudem in the resultant vacancy is justified. The Respondent Management is directed to confirm Sri R. Rajeswar Rao as Cylinder Machine Operator with retrospective effect with all other benefits to which he is entitled together with all attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 16th day of April, 1994.

Appendix of Evidence

Witnesses Examined
for Petitioner :

WW-1—A. Rajeswara Rao.

Witnesses Examined
for Respondent :**NIL**

Documents marked for Petitioner/Workman

- Ex. W-1/22-12-86—Xerox copy of Service Certificate of the Workmen.
- Ex. W-2/21-5-85—Xerox copy of Authorisation letter to the workman.
- Ex. W-3/29-2-92—Xerox copy of the Office Order stating that Mr. T. O. Kuriaikose was promoted to Grade-E as Asstt. Machine Man.
- Ex. W-4/16-9-88—Copy of the representation of the petitioner before Grievance Committee of the Respondent Company.

Documents marked for Respondent-Management
NIL

नई दिल्ली, 17 मई, 1994

का.आ. 1374:—औद्योगिक विभाग अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रतिसरण में एस सी सी लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विभाव में केन्द्रीय सरकार औद्योगिक अधिकरण, हैवराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-22012/191/88-डी-4(बी)]
के.वी.बी. उन्नी, डैस्क अधिकारी

New Delhi, the 17th May, 1994

S.O. 1374.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-1994.

[No. L-22012/191/88-D.IV(B)]
K. V. B. UNNY, Desk Officer

ANNEXURE**BEFORE THE INDUSTRIAL TRIBUNAL AT
HYDERABAD****PRESENT:**

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-I
Dated : 23rd day of April, 1994

INDUSTRIAL DISPUTE NO. 45 OF 1989**BETWEEN**

The Workmen of S.C. Co. Ltd.,
Ramakrishnapur Area, Ramakrishnapur,
Adilabad District (A.P.) .. PETITIONER

AND

The Management of S.C. Co. Ltd.,
Ramakrishnapur Area, Ramakrishnapur,
Adilabad District. .. RESPONDENT

APPEARANCES :

M/s. G. Bikshapathy & G. Vidyasar & N. V. Vinesh,
Advocates for the Petitioner.

M/s. K. Srinivasa Murthy, G. Sudha, Mitra Das and
V. Usha Rani, Advocates for the Respondent.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-22012(191)88-D.IV.B. dt. 28-6-1989 referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the Management of Singareni Collieries Company Limited, Ramakrishnapur Area and the Workmen to this Tribunal for adjudication :

"Whether the action of the Management of M/s. S.C. Co. Ltd., Ramakrishnapur Area in terminating the services of Sri Atmakuri Narasiah and Kande Ankose, Coal Fillers RK-1 and 3 Inclines w.e.f. 21-9-1984 and 1-10-1984 respectively and not paying back wages with retrospective effect is justified? If not, to what relief the workmen are entitled?"

The reference is registered as Industrial Dispute No. 45 of 1989 and notices were issued to both the parties.

2. The brief facts of the claim statement filed by the Petitioner-workmen read as follows :

The workmen Atmakur Narasiah and Kande Ankose were appointed as Coal Fillers under the Management. While so, a charge sheet dt. 11-3-1984 and 13-3-1984 were served on them. It is submitted that an enquiry was ordered to be conducted after appointing an enquiry officer. While so one Assampalli Mallesh lodged a criminal complaint against Sri J. M. Prasad S.O.M. RK-3 alleging that he was assaulted and the same was numbered as C. C. 86/84. Further it is submitted that Sri J. M. Prasad S.O.M. RK-3 has also filed another criminal case as a counter blast against the complainant in C. C. 86/84 and also implicated the workmen along with 4 others. The same was numbered as C.C. 104/84. The allegations in the charge sheet against the workmen and allegations in C.C. 86/84 and C.C. 104/84 were regarding the same incident and the facts were forming part of the same occurrence. While so, the Enquiry by Departmental Enquiry Officer was filed for 3rd time on 11-4-1984 the workmen submitted an application that Criminal case is pending before J.F.C.N. Luxpet. On the same subject and therefore the domestic enquiry cannot be conducted. Basing on such farsical enquiry and the report, the management issued orders dismissing the workmen in proceedings dt. 20-9-1984 and 30-9-1984. It is submitted that subsequently both C.C. No. 85/84 and as well as C. C. No. 106/84 ended in acquittals. So far as two other workmen namely Assampally Mallesh and Gadapa Mallesh who were also involved in the criminal proceeding and were also subjected to charge sheets did not attend the domestic enquiry on the ground that there was a settlement under Section 12(3) of the I.D. Act between the Union and the Management. Wherein it was agreed by the Management to await the result of the criminal proceedings before initiating domestic enquiry. In violation of that agreement enquiry was conducted against them also ex parte and they were also dismissed from service. After the said dismissals the management rightly filed petitions under Section 33(2)(b) of the I.D. Act seeking approvals of the action taken by them against the workers as an I.D. No. 56/84 is pending before this Hon'ble Tribunal as those workers were concerned workmen connected with the main dispute. The same was rejected by this Hon'ble Tribunal. It is learnt that the management when tried to initiate fresh enquiry, those workmen filed a Writ Petition questioning the fresh departmental enquiry and the same was allowed by the Hon'ble High Court. The action of the management in dismissing the workmen by the impugned orders dt. 20-9-84 and 30-9-84 are illegal, null and void as it contravenes sec. 33 of the I.D. Act. The workmen directly concerned and connected with I.D. No. 56/84 in this Tribunal. The Management is bound to follow the provisions of Sec 33(2)(b) of the I.D. Act regarding the payment of wages for one month wages and making up an application for approval of the action taken by them. The charge sheets against these workmen pertains to the same charges of Assampally Mallesh and

Gadapa Mallesh and were subject matter of the same criminal proceedings which ended in acquittal and as the earlier M.P.s. 73/85 and 74/85 were decided in favour of these workmen, the same benefit has to be extended to these workmen also. Unfortunately the dispute was raised in 1986 but was referred only in the year 1989. Even though the matters of Assampalli Mallesh and Gadapa Mallesh were sent up to High Court and is decided in favour of the workmen the management did not choose to take these workers back into service which is discriminatory. It is submitted that as the criminal proceedings against the workman along with others were decided in their favour the impugned orders dt. 20-9-1984 and 30-9-1984 have got to be set aside. Therefore it is prayed that this Hon'ble Tribunal may be pleased to set aside the orders dt. 20-9-1984 and 30-9-1984 and pass an award directing the management to reinstate the workmen with full back wages and all attendant benefits.

3. The brief facts of the counter filed by the Respondent-Management read as follows : S|Shri Atmakuri Narasiah and Kande Ankoos were appointed as Coal Fillers in Ramakrishnapur Area and had been continuously working in the same capacity. It is true that the charge sheet dt. 11-3-1984 and 13-3-1984 were served on them under Company Standing Order No. 16(5). They were given charge sheets on the charges of assaulting Sri J. M. Prasad, Superintendent of Mines, R.K. 3 Incline, near road bridge at Ramakrishnapur Market, while he was proceeding towards the mine in his car at 3.40 P.M. on 26-2-1984 and also while returning home at 5.40 P.M. on the same day. It is submitted that basing upon the complaint of Sri J. M. Prasad, Superintendent of Mines, R.K. 3 Incline, the Police Authorities filed a charge sheet before the First Class Judicial Magistrate, Luxettipet for assaulting the complainant i.e. Sri J.M. Prasad. As the workmen were not convincing any interest for giving explanation, management was left with no alternative but to conduct domestic enquiry. It is submitted Sri J. M. Prasad after assault and receiving injuries first went to Doctor and then reported to the management and then gave a police complaint. Sri Assampalli Mallesh gave police complaint. The criminal case was numbered as Criminal Case No. 104/1984 and the case filed by Sri Assampalli Mallesh was numbered as Criminal Case No. 86/1984. It is true that the workmen submitted application not to conduct the enquiry on the ground that the criminal case is pending with a view to somehow or other to stall the enquiry and the Colliery Manager correctly replied that the scope of the criminal case enquiry and that of domestic enquiry are different. It is true that Sri Assampalli Mallesh and Sri Gadagu Mallesh were also involved in the Criminal case and management entered into a settlement with the Union under Section 12(3) of the I.D. Act. Accordingly after the Criminal Case judgement only dismissal orders were passed against the workmen who are covered under the settlement. The workmen in dispute are not covered under the settlement and so the question of the petitioner Union treating them on par with those covered under the settlement does not arise. There are no merits in this case. Keeping in view these facts the management has dismissed the workmen in dispute. There are no merits in the Petitioner's case. In view of the above mentioned facts this Hon'ble Court may be pleased to dismiss their claim petition, and hold the termination of services of Sri Atmakuri Narasiah and Sri Kande Ankoos as justified and they are not entitled for back wages and other benefits.

4. The point for adjudication is whether the Respondent in terminating the services of S|Sri Atmakuri Narasiah and Kande Ankoos, w.c.f. 21-9-1984 and 1-10-1984 respectively and not paying back wages with retrospective effect is justified or not?

5. Before going into the merits of the case, this Tribunal considered the validity of the domestic enquiry as a preliminary issue. On 13-4-1994 this Tribunal passed an order holding that the domestic enquiry conducted in the case is not vitiated for any reason.

6. No oral or documentary evidence have been let in by both the parties after the finding on the domestic enquiry as a preliminary issue.

7. In this case two workmen are involved i.e. Atmakuri Narasiah and Kande Ankoos. These two workmen in dispute were issued with the charge sheets alleging that they blocked the road and assaulted Sri J. M. Prasad, C.O.M. R.K. 3 Incline, again with a group of persons obstructed the way and assaulted the above said J. M. Prasad which constituted misconduct under Company Standing Orders 16(5). Assampalli Mallesh lodged a criminal complaint against J. M. Prasad alleging that he was assaulted, was numbered as L. C. 86/84. Sri J. M. Prasad has also filed another criminal case as a counter blast against C.C. 86/84 implicating the workmen along with four others, which was numbered as C.C. 104/84. These two cases were on the file of Judicial First Class Magistrate, Luxettipet. The allegations in the charge sheet against the workmen and allegations in C.C. 86/84 and C.C. 104/84 were of the same incident and the facts were forming part of the same occurrence. The contention of the workmen is that the departmental enquiry officer fixed enquiry on 11-4-1984, an application was submitted by the workmen stating that criminal case is pending before J.F.C.M.L. Luxettipet on the same subject hence the domestic enquiry cannot be conducted. The Respondent Management replied that the proceedings are different. The enquiry was conducted ex parte and the workmen were found to be guilty, the Management issued order dismissing the workmen under proceedings dt. 20-9-1984 and 30-9-1984 respectively. The workmen submitted that both C. C. No. 86/84 and C.C. No. 106/84 were ended in acquittals. The case of the petitioner workmen is that these workmen are directly concerned and connected with I. D. No. 56/84 on the file of this Tribunal. The Management is bound to follow the provisions of Section 33(2)(b) of the I.D. Act with regard to payment of wages for one month and making up an application for approval of the action taken by them. The petitioner contended that two other workmen namely Assampalli Mallesh and Gadaga Mallesh who were also involved in the same transaction, the management filed petitions Under Section 33(2)(b) of the I.D. Act (M.P. No. 73/85 and 74/85 in I.D. No. 56 of 1984) before this Hon'ble Tribunal for approval of the action of dismissal during the pendency of the main dispute i.e. I.D. No. 56 of 1984, the same statutory procedure was not followed in their case. They also claimed that M.P. Nos. 73/85 and 74/85 were decided in favour of those workmen, the same benefit should be extended to these workmen in dispute.

8. As mentioned earlier, this Tribunal passed the Order on 13-4-1994 holding that the domestic enquiry conducted by the Respondent is not vitiated though it was an exparte domestic enquiry. These workmen in dispute claimed that since the criminal case was filed before the Judicial First Class Magistrate, Luxettipet, they did not participate in the domestic enquiry conducted by the Respondent Management which ended exparte, and the Enquiry Officer found these two workmen in question guilty of the charges. Be that whatever it may. These two proceedings are entirely different. The Management can take initiation of conducting the domestic enquiry and they were right in conducting the domestic enquiry. Nextly the claim of the petitioner workmen in dispute that since the workmen directly concerned and connected with I.D. No. 56/84 on the file of this Tribunal, the management should have followed the provisions of Section 33(2)(b) of the I.D. Act for approval of the action taken by them, which the Management did not follow the same statutory proceedings procedure. As seen from the records that along with these two workmen in dispute, two other workmen also involved in the same incident, and they were also filed criminal case, the Management filed petition under Section 33(2)(b) of the I.D. Act for approval of the action in dismissing the workmen, during the pendency of the main case i.e. I.D. No. 56 of 1984 and the said two petitions i.e. M.P. Nos. 73/85 and 74/85 were in favour of the workmen. The Respondent management did not extend the same benefits to these two workmen in dispute and discriminated. I find that since the Criminal Case No. 86/84 ended in acquittal and the Respondent-Management did not follow the procedure of filing petition under Section 33(2)(b) of the I.D. Act against these two workmen in dispute only re-instatement of the petitioner workmen would be justifiable.

9. In the result, the action of the Management of M/s. Singareni Collieries Company Limited, Ramakrishnapur Area in terminating the services of S|Sri Atmakuri Narasiah and

Kande Ankoos Coal Fillers, RK-1 and 3 Inclines, w.e.f. 21-9-1984 and 1-10-1984 respectively and not paying back wages with retrospective effect is not justified. Sri Atmakuri Narasiah and Kande Ankoos are entitled to be re-instated into service from the date of this Award and they are not liable for back wages and other attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 23rd day of April, 1994.

: Y. VENKATACHALAM, Industrial Tribunal-I

Appendix of Evidence

Witnesses Examined on behalf of Respondent-Management:

M.W.1 S. Janardhan Rao W.W.1 A. Narasaiah

Documents marked for the Respondent-Management:

Ex. M1|18-3-84.—Photostat copy of the general appointment order dt. 18-3-84 issued by the Addl. C.M.E., RKP I SC. Co. Ltd., Kothagudem Collieries with regard to appointment of Sri S. Janardhan Rao as Enquiry Officer.

Rx. M2|11-3-84.—Copy of the Charge Sheet issued by the Colliery Manager, Ravindrakhani No. I to Sri Atmakuri Narasiah.

Ex. M3.—Acknowledgement of Sri A. Narasiah in token of receiving the original of Ex. M2.

Ex. M4|14-3-84.—Explanation dt. 14-3-1984 submitted by A. Narasiah to the Colliery Manager with regard to charge sheet.

Ex. M5|5-4-84.—Copy of the Enquiry Notice dt. 5-4-94 issued by the Colliery Manager to A. Narasiah.

Ex. M6|24-3-84.—Copy of the Enquiry notice dt. 24-3-84 issued by the Colliery Manager to A. Narasiah.

Ex. M7|28-3-84.—Copy of the Enquiry Notice dt. 28-3-84 issued by the Colliery Manager to A. Narasiah.

Ex. M8|25-4-84.—Copy of the Enquiry Notice dt. 25-4-84 issued by the Colliery Manager to A. Narasiah.

Ex. M9|1-4-84.—Letter dt. 1-4-84 submitted by A. Narasiah to the Enquiry Officer with regard to postponement of the enquiry.

Ex. M10|5-4-84.—Letter dt. 5-4-1984 submitted by A. Narasiah to the Colliery Manager with regard to cancel the enquiry proceedings.

Ex. M11|29-4-84.—Enquiry Proceedings.

Ex. M12.—Enquiry Report.

Ex. M13|20-9-84.—Copy of the Dismissal order dt. 20-9-84 issued by the Addl Chief Mining Engineer, Ramakrishnapur Divn. I to Atmakuri Narasiah.

Ex. M14.—Copy of Judgement in W.P. No. 14470/84.

Ex. M15.—Copy of Judgement in W.A. No. 1415/84.

Ex. M16|18-3-84.—Xerox copy.

Ex. M17|13-3-84.—Charge Sheet issued to Sri Kande Ankoos.

Ex. M18.—The Acknowledgement of Ex. M17.

Ex. M19|5-4-84.—Explanation by Sri Kande Ankoos.

Ex. M20.—Letter submitted by Ankoos for deferring the enquiry.

Ex. M21|25-8-84.—Reply by the Management to Ex. M 20.

Ex. M22|28-8-84.—Notice issued by the Colliery Management fixing the enquiry on 2-9-84.

Ex. M23.—Enquiry Proceedings.

Ex. M24.—Enquiry Report.

Ex. M25|30-9-84.—Order passed by the Management.

Documents marked for the petitioner-Workmen:

Ex. W1|25-7-85.—Xerox copy of Judgement in C.C. No. 104/84.

Ex. W2|30-4-86.—Xerox copy of order in M.P. No. 73] 85 in I.D. 56/84.

Ex. W3.—Letter issued by the Management with regard to reinstatement.

नई दिल्ली, 17 मई, 1994

का.ग्रा. 1375.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में एस. सी. सी. एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण, हैवराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-22012/118/88-डी-4(बी)]
के.वी.बी. उन्नी, इस्क अधिकारी

New Delhi, the 17th May, 1994

S.O. 1375.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-1994.

[No. L-22012/118/88-D.IV(B)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal.

Dated, 27th day of April, 1994

Industrial Dispute No. 8 of 1989

BETWEEN

The Workmen of Singareni Collieries Company Limited, Area-I, Ramagundam Division represented by its General Secretary, Singareni Miners and Engineering Workers Union (HMS) Ramakrishnapur.

...Petitioner.

AND

The Management of Singareni Collieries Company Limited, Area-I, Ramagundam Division, Godavaiikhani rep. by its General Manager.

...Respondent.

APPEARANCES :

S/Sri A. K. Jayaprakash Rao, V. Narsimha Goud, Advocates for the Petitioner.

M/s. K. Srinivasa Murthy, G. Sudha, Advocates for the Respondent.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-22812(118)/88-D.IV(B), dated 30-12-1989 referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the Management of Singareni Collieries Company Limited, Area-I Ramagundam Division and their Workmen to this Tribunal for adjudication :

"Whether the action of the Management of Singareni Collieries Company Limited Area-I, Ramagundam Division P.O. Godavrikhani District, Karimnagar (AP) in imposing the penalty of dismissal w.e.f. 2-4-1987 on Sri B. Joseph, Blacksmith, GDK 5A Incline, is justified? If not, to what relief the workman is entitled?"

This reference is registered as Industrial Dispute No. 8 of 1989 and notices were issued to the parties.

2. The brief facts of the claim statement filed by the Petitioner Union is read as follows :—The Petitioner Union submits that Sri B. Joseph has joined the service of the Respondent in 1963 as a Coal Filler, subsequently promoted as Black Smith in Cat. IV in 1979. The said employee has applied for promotion to Category V as the said employee has completed 3 years service in Cat. IV and as per the existing practice of the Respondent the case of the said employee ought to have been considered by the Respondent. As Respondent did not consider, the Union raised the dispute and finally ended in reference. The petitioner submits the Respondent illegally dismissed the said employee from service w.e.f. 2-4-1987 during the pendency of the conciliation proceedings without obtaining prior permission or approval from the competent authority. The respondent issued a charge sheet to the said employee alleging that the said employee is absenting from work without leave or prior permission, the said employee submitted explanation. The circumstances explained the said employee constitutes a reasonable cause and do not merit for imposition of the maximum punishment of dismissal which is shockingly disproportionate and do not commensurate with the gravity of the charges alleged to have been proved against the said employee. While imposing the maximum punishment of dismissal the Respondents did not take into consideration the past conduct of the said employee and therefore the order of dismissal is illegal and invalid. The petitioner further submits the Respondent forced the said employee to withdraw the dispute in order to consider the case of the said employee for reinstatement, but the employees did not agree for the same, the management imposed the maximum punishment which is nothing but an act of unfair labour practice. The Petitioner therefore prays that this Hon'ble Court may be pleased to set aside the order of dismissal and grant relief of reinstatement with full back wages with all other attendant benefits.

3. The brief facts of the counter and additional counter filed by the Respondent read as follows :—It is submitted that Sri Bathula Joseph, joined the company in 1963 and later he was promoted as Hammerman and in normal course after acquiring skill in Blacksmith work he passed the test conducted by the company and he was promoted as Blacksmith in Category IV. While the workman in dispute was working as Blacksmith in Category IV after completion of 3 years he submitted an application seeking promotion to Category V. It may be noticed that during the period under review for promotion the performance appraisal of the workman in dispute indicates that for most of the time he was absent and his workmanship was not upto the mark, he was not considered for promotion. It is submitted that the allegation that the order of dismissal dated 2-4-1987 is illegal is not correct. That dispute has nothing to do with the present dispute. So question of obtaining permission under Section 33 does not arise. It may be noticed that the workman in dispute was a habitual absentee he was issued with a charge sheet and domestic enquiry was conducted. The allegation that the punishment of dismissal is shockingly disproportionate and do not commensurate with the gravity of the charges is not correct. The allegation that the order of dismissal passed by the Respondent is violative of principles of natural justice is not correct. Having looked into his part record only management found that he has issued chargesheets and punished several times for his habitual absenteeism and in spite of that he has not chosen to correct himself. The allegation

that the workman was forced to withdraw the dispute is totally false. There are no merits in the petitioner's case and the workman in dispute is not entitled for reinstatement with back wages and all other attendant benefits and the claim petition may please be dismissed.

4. The point for adjudication is whether the action of the Respondent in imposing the penalty of dismissal w.e.f. 2-4-87 is on Sri B. Joseph, Blacksmith is justified or not?

5. W.W.1 was examined on behalf of the Petitioner workman and no documents were marked on its side. M.W.1 and M.W.2 were examined on behalf of the Respondent and marked Exs. M1 to M10 on its side.

6. Before taking up the case on merits, this Tribunal decided the validity of the domestic enquiry conducted by the Respondent as a preliminary issue. On 21-4-1994 this Tribunal passed Order holding that the domestic enquiry conducted by the Respondent in this case is not vitiated for any reason. So this case has to be decided on merits now. No oral or documents evidence has been let in after the order passed supra.

7. This Tribunal has to decide whether the dismissal order passed against the Petitioner workman is shockingly disproportionate to the gravity of the misconduct committed by the workman in question.

8. It is seen that the Respondent Management issued a charge sheet to the workmen in dispute alleging that the said workman is absenting from work without any leave or prior permission frequently for the said employee has submitted the detailed explanation explaining the circumstances. The employee in question submits that the circumstances explained the said employee constitutes a reasonable cause and not merit for imposition of the maximum punishment of dismissal. Further it is submitted by the Petitioner that while imposing the maximum punishment of dismissal the Respondent did not take into consideration the past conduct of the said employee and that the management forced the said employee to withdraw the dispute in order to consider the case of the said employee for reinstatement, the employee did not agree for the same the management imposed the maximum punishment. On the other hand, the contention of the Respondent Management that the workman in dispute was a habitual absentee, he was issued with a chargesheet and domestic enquiry was conducted. The workmen in dispute, in spite of explaining to him that habitual absenteeism is a misconduct and it will also hampers the work of mine, he has not chosen to change his attitude and remained absent from duty.

9. Be that whatever it may, no doubt the workman in dispute absented himself frequently and a charge sheet was issued to him and the explanation was submitted by the workman in question explaining the circumstances under which he could not attend duty. It is a case of absenteeism but not misconduct that merits for imposition of maximum punishment of dismissal which is shockingly disproportionate and which does not commensurate with the gravity of the charges alleged to have been proved against the employee in dispute. The employee in question joined the Respondent Company in the year 1963 and subsequently he was promoted to Blacksmith in Category IV in the year 1979, and that the employee in dispute was dismissed from service w.e.f. 2-4-1987 during the pendency of the conciliation proceedings. I find that the order of dismissal dismissing Sri B. Joseph is illegal and unjust for the simple reason of absenteeism which does not merit for imposition of the maximum punishment of dismissal which is shockingly disproportionate to the gravity of the misconduct committed by the employee in dispute. I find that the order of dismissal passed by the Respondent Management is liable to be set aside.

10. In the result, the action of the Management of Singareni Collieries Company Limited, Area-I, Ramagundam Division, PO Godavrikhani, Dist. Karimnagar (AP) in imposing the penalty of dismissal w.e.f. 2-4-1987 on Sri B. Joseph, Blacksmith, GDK 5A Incline, is not justified. Sri B. Joseph, Blacksmith is entitled to be reinstated into service with full back wages with all other attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 27th day of April, 1994.

Y. VENKATACHALAM, Industrial Tribunal-I

Appendix of Evidence

Witnesses Examined for the Petitioner-Workman :
W.W.I B. Joseph.

Witnesses Examined for the Respondent-Management :
M.W.I N. Sree Ram Murty.
M.W.2 S. T. Ravindran.

Documents marked for the Management

- Ex. M1/12-6-85—Appointment of Enquiry Officer.
- Ex. M2/22-2-86/4-3-86—Charge Sheet.
- Ex. M3/11-4-86—Explanation given by the Petitioner.
- Ex. M4—Enquiry Notice.
- Ex. M5—Pay Sheets.
- Ex. M6—Enquiry Proceedings.
- Ex. M7—Enquiry Report.
- Ex. M8—Notice (7).
- Ex. M9/17-3-87—Dismissal Order.
- Ex. M10—Attendance particulars.

नई दिल्ली, 17 मई, 1994

क्र.मा. 1376—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में एस सी सी एल. के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-22012/230/88-डी-4(बी)]
के.वी.वी. उन्नी, डैस्क अधिकारी

New Delhi, the 17th May, 1994

S.O. 1376.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-1994.

[No. L-22012/230/88 D.IV(B)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-I.
Dated : 25th day of April, 1994

INDUSTRIAL DISPUTE NO. 41 OF 1989

BETWEEN

1. Shaik Moinuddin died as per L.R's.
2. Smt. Yakiob Bee W/o Shaik Moinuddin (late) aged about 35 years Occ : House Hold. R/o Godavari-khani.
3. Nayeem S/o Late Shaik Moinuddin, aged about 17 years (Minor).
4. Mahboob Bee D/o Late Shaik Moinuddin aged about 16 years (Minor).

5. Ghosia, D/o Late Shaik Moinuddin aged 14 years (Minor). . . Petitioners.
(Petitioners 2 to 5 are added as L.R's view of I.A. No. 25/94 dt. 16-2-1994).

AND

The General Manager, Area-I Ramagundam Division, Singareni Collieries Company Limited, Godavari-khani, Karimnagar District. . . Respondent.

APPEARANCES:

M/s. A. K. Jayaprakash Rao, V. Narasimha Goud and K. Srinivasa Rao, Advocates for the Petitioner.

M/s. K. Srinivasa Murthy & G. Sudha, Advocate for the Respondent.

AWARD

The Government of India, Ministry of Labour by its Order No. 22012(230)/88-D.IV.B, dt. 7-6-1989 referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the Management of Singareni Collieries Company Limited, Area-I, Ramagundam Division and their workman to this Tribunal for adjudication:

“Whether the action of the Management of Singareni Collieries Co. Ltd., Area-I, Ramagundam Division P.O. Godavari-khani, Distt. Karimnagar (AP) in dismissing Shaik Mohinudin, Motor Mechanic, Auto Workshop w.e.f. 6-8-1983 is justified? If not, to what relief the workman concerned is entitled?”

This reference was registered as Industrial Dispute No. 41 of 1989 and notices were issued to both the parties.

2. The brief facts of the claim statement filed by the Petitioner read as follows :—The Petitioner submits he has joined the service of the Respondent as a General Mazdoor in 1963 and was promoted as Motor Mechanic in 1968. He was illegally dismissed from service w.e.f. 6-3-1983. The petitioner submits he was issued with the charge sheet dt. 23-10-1982 alleging that on 22-10-1982 he stopped the work on ambulance and dismounted the gear box of Tata Dumper lorry APR 2934 with the help of mazdoor Ravalingu and further loaded the gear box into a cash van APR 4632 unauthorisedly took the van to his residential quarter with the sole intention of stealing it and Mr. B Rajesham, Motor Mechanic and Ravalingu persuaded not to commit the theft and managed to back the van with the gear box leaving him at his place. The petitioner has submitted the explanation denying the allegations and thereafter the Respondent ordered for an enquiry. The petitioner is an uneducated employee and the Enquiry Officer knowing fully well of this illiteracy conducted the enquiry in English and obtained the signatures even without explaining the contents. The Enquiry Officer made me to believe that he was recorded the petitioner's statement correctly and obtained the signature of the petitioner. The petitioner submits he has also categorically denied the allegation but the enquiry officer did not record the same and recorded the statement as if the petitioner has admitted the guilt. The Enquiry Officer acted malafide in order to hold the petitioner guilty of the charges. The petitioner therefore submits the enquiry conducted by the enquiry officer is one sided and the enquiry officer is one sided and the enquiry officer did not act independently but acted partially. The petitioner submits if really he has committed any theft and Ravalingu and B. Rajesham help the petitioner in getting the gear box removed from the van with an intention to steal the same they were being continue in service. The petitioner submits if he guilty of the charge they are also equally responsible and the Respondent did not take any action which would itself establishes that the action of the Respondent is arbitrary and discriminatory. The petitioner has not committed any theft and he was falsely implicated for extraneous reasons. If he has really committed any theft the gear box would not have brought back as alleged in the charge sheet. The Respondent is having security staff and all the vehicles have to pass after search of the security and if really the petitioner has theft any thing the security staff would have caught the petitioner red-handed. The petitioner submits while imposing the maximum punishment of dismissal the respondent has failed to take into consideration

the past conduct and the quantum of punishment to be imposed on the petitioner but imposed the maximum punishment of dismissal which is shockingly disproportionate. The petitioner therefore prays that this Hon'ble Court may be pleased to set aside the order of dismissal passed by the Respondent, dt. 6-8-1988 and grant the relief of reinstatement into service with full back wages and all other attendant benefits in the interest of justice and fair play and pass orders as this Hon'ble Court may deem fit and proper.

3. The brief facts of the counter filed by the Respondent-Management read as follows:—It is true that the Respondent issued the charge sheet on 23-10-1982 with regard to the incident on 22-10-1982. It may be noticed that while the petitioner was on duty on 22-10-1982 he was allotted the work on Mahindra Ambulance No. APR. 3405. He stopped the work at 9.30 A.M. and dismantled the gear box of Tata Dumper Lorry No. APR-2934 with the help of a mazdoor, Sri Kannuri Rajalingu and loaded the gear box into cash van bearing No. APR 4632 unauthorisedly and took the cash van to his residential quarter with an intention to steal the property of the Company. As he has violated Clauses 16(2) and 16(9) of the Company's Standing Orders on 23-10-1982 a charge sheet was issued to him calling for explanation disciplinary action should not be taken against him. This Hon'ble Court may be pleased to read the enquiry file as part and parcel of this counter and the petitioner is put to strict proof basing on what ground he has come to that conclusion. The allegation that the Enquiry Officer's findings are perverse and based on mere assumptions and presumptions is totally false and this allegation is repetitive in nature and the petitioner is put to strict proof of the same. The allegation that while imposing the maximum punishment of dismissal that Respondent has failed to take into consideration the past conduct and the quantum of punishment to be imposed on the petitioner but imposed the maximum punishment of dismissal which is shockingly disproportionate is totally false. It may be noticed that the past conduct of the workman was taken into consideration by the authorities and it was also brought to the notice of the Conciliation Officer and the Union. It is not out of place to mention that the theft was done deliberately with an idea to steal the gear-box. Theft is a gross misconduct and in such cases question of shockingly disproportionate punishment or interfering with the quantum of punishment is not correct as it is detrimental to the interest of the organisation itself. The management has reposed confidence in the petitioner and taking advantage of the confidence in him petitioner misused his official position and has stolen the gear box which was proved beyond doubt. When management lost confidence in an employee it cannot entrust the duties to him. Keeping in view the past conduct, loss of confidence in the petitioner and the gravity of the misconduct of the petitioner was dismissed. As such, making allegation that the dismissal order is shocking disproportionate is not correct. This Hon'ble Court may be pleased to read the counter filed by the Management in the month of May 1990 as part of this counter. There is no merits in the petitioner's case. Petitioner is not entitled either for reinstatement with full back wages or attendant benefits as prayed for, and dismiss the claim petition.

4. Previously this Tribunal passed an ex parte order against the workman confirming the dismissal by the Management, at that time only Respondent evidence was recorded and the workman did not place an evidence. Then the matter went up to the High Court. The Hon'ble High Court set aside the order confirming the dismissal order of the Petitioner workman by then Industrial Tribunal. During that period the workman who was dismissed from service by the Respondent-Management was alive but now the workman in question who was dismissed from service by the Respondent Management is no longer alive since he is dead. The workman brought L.Rs. on record and the L.Rs. are added as a party to the proceedings.

5. When once the workman in question died, the question of considering the validity of the domestic enquiry held against the workman in question does not arise. Now the point for consideration is whether the dismissal order passed by the Respondent-Management against the late workman is justifiable or not. If the Award is passed in favour of the workman in question, the L.Rs. workmen who are brought on record are entitled to get the benefits of the same otherwise there will not be any relief for the L.Rs. deceased 1358 GI/94—6.

workman. The plan on which the workman was kept under suspension is that he committed theft of gear box as seen from the record, the material object which was alleged to have been committed theft by the workman in question is very big and heavy and is not possible for the workman alone to carry it without the knowledge or without the assistance of anybody and it is recovered from the possession of the workman in question. The plea of the management that the workman himself alone committed theft of that heavy material i.e. gear box is far from convincing and it appears to be not reality. Therefore it can safely be said that the proved charge against the workman for the commission of the theft of the Respondent property is far from reality, unbelievable and unacceptable to the Tribunal. Even otherwise the capital punishment imposed by the Respondent on the workman is shockingly disproportionate to the gravity of the alleged misconduct committed by the workman in question. This Tribunal disbelieves the theory of the workman committed the theft of material object is gear box by himself and this Tribunal is of opinion object is gear box by himself and this Tribunal is of opinion that false case has been foisted against the workman by the Respondent Management and it is significant to note that in case if such heavy material object of the Respondent Management which costs about Rs. 10 to Rs. 15 thousand committed theft by the workman in question naturally the Respondent-Management should give a Police report against the workman in question and I see no such report is seen from the records. I find that the action is not justified and the dismissal order passed by the Respondent-Management against the petitioner-workman is hereby set aside.

6. Since the workman in question died, the Respondent-management is directed to calculate reinstatement of the workman in question from the date of removal till his death with all attendant benefits and all services benefits and thereafter the Respondent Management is directed to pay back wages and all attendant benefits and the cash should be paid to L.Rs. workmen deceased with in three months from the date of publication of this award.

7. In the result, the action of the Management of Singareni Collieries Company Limited, Areal-I, Ramagundam Division, P.O. Godavarikhani, Dist. Karimnagar in dismissing Shaik Mohinuddin, Motor Mechanic, Auto Workshop w.e.f. 6-8-1983 is not justified. Since the workman in question died, from the date of dismissal to the date of death, whatever benefits that will be extended to the members of the family of the deceased workman within three months from the date of publication of this Award.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal, this the 25th day of April, 1994.

V. VENKATACHALAM, Industrial Tribunal-I

Appendix of Evidence

Witnesses Examined
for the Workmen :

NIL

Documents marked for the Workmen :

NIL

Documents marked for the Workmen :

Ex. M1.—Complaint statement dt. 23-10-82 made by Kannuri Rajalingu.

Ex. M2.—Charge Sheet dt. 23-10-82 along with acknowledgement.

Ex. M3.—Enquiry Proceedings.

Ex. M4.—Enquiry Report dt. 4-11-82.

Ex. M5.—Dismissal Order dt. 4-8-83 issued to Shaik Mohinuddin by the Additional C. E(E&M) RG Collieries, S.C. Co. Ltd.

Witnesses Examined
for the Management :

M. W1 N. Sreerama Murthy

Documents marked for the Workmen :

NIL

Documents marked for the Workmen :

Ex. M1.—Complaint statement dt. 23-10-82 made by Kannuri Rajalingu.

Ex. M2.—Charge Sheet dt. 23-10-82 along with acknowledgement.

Ex. M3.—Enquiry Proceedings.

Ex. M4.—Enquiry Report dt. 4-11-82.

Ex. M5.—Dismissal Order dt. 4-8-83 issued to Shaik Mohinuddin by the Additional C. E(E&M) RG Collieries, S.C. Co. Ltd.

V. VENKATACHALAM, Industrial Tribunal-I

नई दिल्ली, 17 मई, 1994

का.ग्र. 1377.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युत्तर में एस सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-5-94 को प्राप्त हुआ था।

[संख्या एल-21012/63/86-डी-2(वी)]
के.वी.वी. उन्नी, डैस्क अधिकारी

S.O. 1377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on 12-5-94.

[No. L-21012/63/86-D.II(B)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri Y. Venkatachalam, M.A., B.L., Industrial Tribunal-I.

Dated, 16th day of April, 1994

Industrial Dispute No. 74 of 1988

BETWEEN

The Workmen of S.C. Co. Ltd. (Project),
Godavarikhani, P.O. Godavarikhani,
Kariannapar Dist. (A.P.) ..Petitioner.

AND

The Management of S.C. Co. Ltd. (Project),
Godavarikhani, PO. Godavarikhani,
Dist. Karimnagar (A.P.) ..Respondent

APPEARANCES :

M/s. V. Venkataramana and V. Srinivas, Advocates for
the Petitioner.

M/s. K. Srinivasa Murthy and G. Sudha, Advocates for
the Respondent.

AWARD

The Government of India, Ministry of Labour by its Order No. L-21012/63/86-D.II (B), dated 26-2-1988 referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Singareni Collieries Company Limited (Projects), Godavarikhani and their Workmen to this Tribunal for adjudication :

"Whether the action of the Management of Singareni Collieries Company Limited (Projects), Godavarikhani in dismissing from service, Sri Naspuri Malliah, Ex-Coal Cutter w.e.f. 8-10-92 was justified ? If not, to what relief the workman concerned is entitled ?"

This reference was registered as Industrial Dispute No. 74 of 1988 and notices were issued to both the parties.

2. The brief facts of the claim statement filed by the petitioner-workman read as follows :—The petitioner submits that he was appointed on 3-2-1977 and made permanent Coal Cutter on 2-11-1978 by the Respondent, vide proceedings dt 17-8-1980. While so, a charge sheet dated 9-10-81 was issued to the petitioner making certain false allegations. Though the petitioner submitted an explanation, it was not considered by the Respondent without considering his explanation the

Colliery Manager directed the Petitioner to appear for an enquiry. The Enquiry Officer violated all the principles of natural justice. The services of the petitioner were dismissed by an order dated 29-9-1982. In any case, without prejudice to what is stated above it is submitted that the punishment is highly excessive and disproportionate. It is therefore prayed that this Hon'ble Court may be pleased to set aside the dismissal order and to direct reinstatement of the petitioner with full back wages and other benefits and to grant such other reliefs as it deems fit and proper.

3. The brief facts of the counter filed by the Respondent Management read as follows :—It is true that this Petitioner was appointed in the Respondent on 3-2-1977 and made permanent Coal Cutter on 1-7-1979. As such, the allegation that he was appointed as permanent Coal Cutter on 2-11-1987 is not correct. It is true that this petitioner was issued charge sheet on 9-10-1981 detailing the charges. The petitioner received the charge sheet and submitted the explanation to the Respondent. As the Respondent was not satisfied with the explanation given by the Petitioner, it had appointed Sri G. Chandra Rao an Enquiry Officer to conduct the domestic enquiry. This Hon'ble Court may be pleased to read the entire domestic enquiry file as part and parcel of this counter. After the enquiry proceedings are completed the Enquiry Officer forwarded the findings to the Management. The Respondent looked into the findings of the enquiry, past record of the employee, applied its mind and passed the dismissal order dated 29-9-1982. It may be noticed that the charges being grave in nature, the petitioner was being a Coal Cutter, assaulted two officers, namely Sri L. K. Das, the then Dy. Chief Mining Engineer and Sri Talpalikar, the then Addl. Chief Mining Engineer, and also his driver and also damaged two cars and one lorry and the said charges were proved beyond doubt, the officers who were assaulted have given evidence in the domestic enquiry and as he was found guilty of misconduct under Company's Standing Orders 16(5) and 16(9), the Respondent having done through the entire record and applied its mind and dismissed the employee. The charge sheet charges have nothing to do with the charges of the criminal case. As such he is not entitled for reinstatement with full back wages. The allegation the punishment is highly excessive, disproportionate is not correct. In view of the above mentioned facts it is respectfully submitted the petitioner is not entitled to the relief prayed for i.e. to set aside the dismissal order and to direct reinstatement of the petitioner with full back wages and other benefits and on the contrary this Hon'ble Court may be pleased to uphold the dismissal order passed on 29-9-82 and pass necessary orders as deemed fit.

4. The point for adjudication is whether the action of the Respondent in dismissing from service Sri Naspuri Malliah, Ex. Coal Cutter w.e.f. 1-10-82 was justified or not ?

5. Before going in to the merits of the case, this Tribunal decided the preliminary issue by examining W.W.1 and M.W.1 and marked Exs. M1 to M10 and passed the Order on 12-8-1993 holding that the domestic enquiry conducted by the Management is vitiated.

6. Subsequently M.W.2 and M.W.3 were examined and marked Exs. M1 to M3 to decided on merits. The order passed by the Tribunal on 12-8-1993 on the question of validity of the domestic enquiry is read as part and parcel of this award together with the material placed before the preliminary point.

7. MW-2 is B. V. Talpalikar. In brief he deposed that in the year 1981 he was working as Divl. Superintendent in Open Cast Mine. Then he did not know the workman. He was not working in his mine. He has been provided with a car by the Management API 1592. Ramanpillai was his driver. He was proceeding from Stores to his work spot at 3.00 p.m. he saw small mob beyond GDK 7 Office. He noticed the Car of Mr. L. K. Das sitting in the car. He asked him what was the matter. He said nothing serious and some altercations between the Driver and the Workers. He guided him that he can proceed. His driver went off the road to avoid the mob came to the centre of the road. Some people stopped his car. The mob pulled his Driver started beating him. He came out from the car pleaded with the mob why beating the innocent driver. They left my driver started beating him, he received two three blows up in my stomach and on his back. His shirt was torn and his pant was torn. He ran for rescue to Mr. P. Kumar's House

residence near by. After some time police came. He went to his house Raman Pillai was taken to the hospital with bleeding injuries. He went to the Doctor later Vijaya Narayana. He did not know whether any report was prepared by the Doctor. Mr. L. K. Das proceeding before him. Mr. L. K. Das did not stop and try to pacify the mob. He has no enemy with the workman by name Mallaiah. At that time the atmosphere at Ramagundam was very tense. At that time Naxalite activity was on the rise. They were not feeling safe. Beating of officers, threatening go slow strikes such activities were taking place. The management filed a criminal case against workman. The incident of beating him and his driver by the workman took place for about 10 minutes. The car was sent for repairs to Hyderabad. He could recognise the workman that is Mallaiah from his face. The police asked him to identify and he identified only one person that is N. Mallaiah. Till then he did not know the name of the other details of the workman. He has no enemy with the workman.

8. M.W.3 is M. Shiva Rama Reddy. In brief he deposed that he knew about the incident. Sri Narasapudi Mallaiah the workman in dispute worked as Coal Cutter at GDK 10 Incline where he worked. He is one of the eye witness for the said accident. Generally they used to wait on the road stop the coal transport lorries and used to get it. On 25-9-91 the evening at about 3.15 P.M. himself and same other colleagues working at other places came out of their houses and standing on the road waiting for a lorry, to go to the Mine in the evening sessions. Post lunch session. They have observed a mob of around 30 to 40 workmen coming by work from Venkatarao Pally to GDK 7A Incline. Most of them are workers. Just when they reached to near to us one lorry was passing on the road in high speed. Then all the mob were trying loudly and shouted the driver to stop the lorry. But the lorry could not stop and it has passed. Immediately behind the lorry one Fiat Car of Mr. V. B. Tallipalikar coming from his house going to Open Cast Project where his office is situated. Then all the mob stopped the Fiat Car incidentally. The Car Driver tried to take the car shed by the side of the road. The mob could not allow the driver and broken the glasses of the car open the doors and dragged Sri Talpalikar from the car and beaten as they like and thrown him on the road and identified Nasipuri Mallaiah and others kicking him. Himself and others tried to save him. Sri Talpalikar dress was completely torn out into pieces and his glasses were broken. There are some bleedings on Mr. Talpalikar. Then they have taken him into their houses of one Mr. P. Kumar, Asst. Engineer O.S.P. He presently working at Manuguru. He was given temporary relief there and was sent to the hospital. When this incident was occurred on the same movement another car has come. In that case Mr. L. K. Das who was the agent of 9, 9A Inclines was going in the car for his office which was behind Tallipalikar some of the mob turned towards Dr. Das's car and attempted to open the door and handle was broken but the door would not be opened and L. K. Das, Driver took a deviation and went off to the office and phoned to concerned authorities. Sri L. K. Das was murdered in some other incident subsequently.

9. In this case, the allegation of the Petitioner workman that a charge sheet was issued to the Petitioner-workman making certain false allegations, though the petitioner submitted an explanation, without considering the explanation of the Petitioner the Colliery Manager directed the Petitioner to appear for an enquiry, the petitioner was not given proper opportunity in the enquiry inspite of protest, that the petitioner was not given the list of witnesses and list of documents, the enquiry proceedings were recorded in English inspite of protest record the same in Telugu and finally the petitioner was dismissed by an order dt. 29-9-1982. The further contention of the petitioner that the same charges were alleged before the Criminal Court and he was acquitted by the Hon'ble Judicial Magistrate, Sultanabad by order dt. 11-1-1984 in C.C. No. 398/1982, hence he is entitled for reinstatement with full back wages.

10. On the other hand the contention of the Respondent-Management that the petitioner was issued with a charge sheet on 9-10-1981 and submitted his explanation, as the Respondent was not satisfied with the explanation given by the petitioner, a domestic enquiry was conducted, the enquiry was conducted in Telugu only and recording was done

in English, it is noticed for the first time the petitioner is coming now with an allegation that list of witnesses and documents were not given to him that after the enquiry proceedings are completed the Enquiry Officer forwarded the findings to the Management, the management looked into the findings of the enquiry, past record of the employee, applied its mind and passed the dismissal order dt. 29-9-1982.

11. It is pertinent to note that a regular domestic enquiry was conducted by the Management into the alleged charges committed by the petitioner-workman. It is alleged by the Petitioner that the Colliery Manager without considering the explanation submitted by the petitioner directed to appear for the enquiry. It is stated by the petitioner that the Enquiry Officer violated all the principles of natural justice, as the petitioner was not given proper opportunity inspite of protests the enquiry was conducted in English. This case came up on the question of validity of the domestic enquiry conducted by the Respondent-Management as a preliminary issue and this Tribunal passed a preliminary order on 12-8-1993 holding that the domestic enquiry conducted by the Management is vitiated. The order passed by this Tribunal on 12-8-1993 on the question of validity of the domestic enquiry is read as part and parcel of this award together with all the material placed before this Tribunal as mentioned above. I find that when the domestic enquiry conducted by the Respondent-Management is not proper and valid, the question of dismissing the petitioner workman from service is not valid, and the order of dismissal passed by the Respondent has to be set aside. It is also mentioned in the claim statement of the petitioner that the same charges were alleged before the Criminal Court and he was acquitted by the Hon'ble judicial Magistrate, Sultanabad by his order dt. 11-1-1984 in C.C. No. 398/1982. On a consideration of the evidence, facts and circumstances of the case, I am clearly of the view that the dismissal order passed against the petitioner-workman in removing him from service as punishment is highly excessive and disproportionate and that the petitioner is liable to be reinstated into service will full back wages and other benefits.

12. In the result, the action of the Management Singareni Collieries Company Limited (Projects), Godavarikhani in dismissing from service Sri Nasipuri Mallaiah, Ex-Coal Cutter, w.e.f. 1-10-1982 is not justified. The Respondent-Management is directed to reinstate the petitioner Sri Nasipuri Mallaiah with full back wages and all other attendant benefits.

Award passed accordingly.

Typed to my dictation, given under my hand and the seal of this Tribunal this the 16th day of April, 1994.

Y. VENKATACHALAM, Industrial Tribunal

Appendix of Evidence. (After P.P.)

Witnesses Examined for Management :

(M.W1 before P.P.)

(G. Chandra Rao)

After P.P.

MW-2—B. V. Talpalikar.

MW-3—M. Shiva Ram Reddy.

Witnesses Examined for Workman :
(WW-1 N. Mallaiah)
(before P.P.)

(W.W1 further examined after p.p. on 15-3-94)

Documents marked for the Management (After P.P.)

Ex M1.—Charge sheet issued to the Workman Nasipuri Mallaiah by the Colliery Manager, G.D.K. No. 10 Incline.

Ex. M2.—Explanation given by the Workman Sri Nasipuri Mallaiah.

Ex M3 29-9-92.—Dismissal Order issued by the Addl. Chief Mining Engineer, Ramagundam Divn. IV to Sri N. Mallaiah.

Documents marked for the Workman :

NIL

नई दिल्ली, 20 मई, 1994

का. आ. 1378.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आईडेन्स डिपो अवदी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-94 को प्राप्त हुआ था।

[संख्या एल-14012/16/90-आई.आर. (झ.यू.) (भाग)]
के. वी. बी. उशी, ईस्क अधिकारी

New Delhi, the 20th May, 1994

S.O. 1378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Ordnance Depot, Avadi and their workmen, which was received by the Central Government on 19-5-94.

[No. L-14012/16/90-IR(DU)(Pt.)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

Friday, the 15th day of April, 1994

PRESENT :

Thiru K. Sampath Kumaran, B.A., B.L.,
Industrial Tribunal,
Industrial Dispute No. 60/94

(In the matter of the dispute for adjudication under Section 10(1) (d) of the Industrial Disputes Act, 1947 between the workman and the Management of Ordnance Depot, Avadi).

BETWEEN

Thiru D. Kondaiah,
C/o Shri T. Fenn Walter,
Advocate, No. 161, Thambu Chetty Street,
II Floor, Madras-600001.

AND

The Commandant,
Ordnance Depot,
Avadi,

IAF Post, Madras-600053.
Reference : Order No. L-14012/16/90-IR(DU), dated
28-2-94, Ministry of Labour, Government of India,
New Delhi.

This dispute coming on this day for final disposal in the presence of Thru S. Srinivasan, Addl. Standing Govt. Counsel appearing for the management upon preusing the reference, and other connected papers on record and the workman being absent, this Tribunal passed the following.

AWARD

"This dispute between the workman and the Management of Ordnance Depot, Avadi, arises out of a reference by Ministry of Labour, Govt. of India, for adjudication of the following issue :

"Whether the action of the Management of Ordnance Depot, Avadi in terminating the services of their workman Shri D. Kondaiah is justified ? If not, what relief the workman concerned is entitled to ?"
Petitioner called absent.

Mr. S. Srinivasan filed Memo of appearance for respondent

Industrial dispute dismissed for default.
dated this the 15th day of April, 1994.

THIRU K. SAMPATH KUMARAN, Industrial Tribunal

नई दिल्ली, 24 मई, 1994

का. आ. 1379.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ग्रामीण स्वास्थ्य प्रशिक्षण केन्द्र, नजफगढ़ के प्रबन्धतंत्र के सबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई विली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-94 को प्राप्त हुआ था।

[संख्या एन-42012/78/89-आई.आर. (झ.यू.) (भाग)]
के. वी. बी. उशी, ईस्क अधिकारी

New Delhi, the 24th May, 1994

S.O. 1379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Rural Health Training Centre, Najafgarh and their workmen, which was received by the Central Government on 23-5-94.

[No. L-42012/78/89-IR (DU) (Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPAT SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRI-

BUNAL : NEW DELHI

I.D. No. 121/89

In the matter of dispute between :
Smt. Ram Pyari W/o Shri Ram Sarup,
r/o H. No. RZ-40-A, New Roshan Pura,
Najafgarh, Delhi.

Versus

The Management of M/s. Rural Health Training Centre, through its Administrative Officer, Najafgarh, New Delhi.

APPEARANCES :

Shri C. P. Aggarwal for the workman.
None for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/78/89-IR(DU) dated 30-10-89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Rural Health Training Centre, Najafgarh, Delhi in terminating the services of Smt. Ram Piyari, daily rated worker w.e.f. 8-4-87 is legal and justified ? If not, to what relief she is entitled ?"

2. In her statement of claim workman has alleged that she was in the employment of the Rural Health Training Centre Najafgarh since 1-5-86 as class IV employee. She was being treated as daily rated/casual/against muster roll worker and was being paid wages as fixed and revised from time to time by the Government. Her counter parts doing the identical work were being treated as regular employees and were being paid scale of Rs. 750-940 with usual allowances admissible under the rules. Her services were terminated on 8-5-87 without assigning any reason. The action of the Management was wholly illegal, unjust and mala fide on the ground that she was being paid less than those who were doing identical work. It was violative of article 14 and 16 of the Constitution of India. She has been meted out hostile discrimination as juniors to her have been retained in service. No seniority list was displayed nor notice served nor notice pay was ever offered or paid to her. She had completed 240 days continuous employment and her services termination was wholly illegal and violative of section 25-F, G and H of the I.D. Act.

3. The Management in its reply alleged that she was engaged as a water carrier on daily basis @Rs. 13.60 during working day vide order dated 30-4-86. Her services were ter-

minated alongwith the others vide office letter dated 16-10-86. She remained on daily wages for 145 days. Her services were again utilised on daily basis vide letter dated 22-10-86 and the same were again terminated on 22-2-87. She was again appointed on daily wages on 25-2-87 and remained upto 8-4-87. During the year 1986, she had worked for 199 days and 81 days during the year 87. She did not work upto 8-5-87 but only upto 8-4-87. No junior to her were retained in service. The question of serving any notice or notice pay to her did not arise as she was working on daily wages and was not entitled to any relief from this court.

4. The management examined Dr. S. Chakerwoty while the workman appeared herself as WW1 in support of her case.

5. I have heard representative for the parties and have gone through the record.

6. The representative for the management has pointed out that his statement Ex. MW1/2 shows that her services were terminated on 8-4-87 and for the period upto 31-12-86 in the year 1986 she had worked only for 199 days. She used to be marked present only on the working days and as such she was not in the regular employment of the management. She had worked in the month of October from 1-10-86 to 14-10-86 and there was a break of six days thereafter. In no month she has been paid for the complete month but for the days she worked. She was, therefore, not from the regular employment and could not claim regularity in service. No evidence has been produced by the workman to show that any person junior to her was retained.

7. The workman representative has urged that by calculating the days of both the years 86-87 she had in fact worked for 280 days and as such her working days were more than 240 days and she was entitled to regularization of service and also emoluments equal to the persons who were in the regular employment. Workman representative has further urged that after completing 240 days she was entitled because the Sundays and other holidays for which she was not even paid and have to be treated as on duty under the employer for the purpose of section 25-F read with section 25-E of the I. D. Act.

8. After having gone through the points urged before me I am of the view that the workman was appointed on daily wages as water carrier and there was a break in her service in October, 86. She had actually not completed 240 days in any one calendar year and as such she was not entitled to the protection provided in the I.D. Act to the persons who are treated as in continuous service for 240 days. This number of days does not stand completed even if Sundays and paid holidays are added in those days. No evidence has come on record as to which of her junior was retained in service. I, therefore, am, of the view that no irregularity seems to have been committed by the management and the management was justified in terminating the services of the workman. Parties are, however, left to bear their own costs.

GANPATI SHARMA, Presiding Officer

16th March, 1994

नई दिल्ली, 26 मई, 1994

का. प्रा. 1380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल डेरी रिसर्च इस्टीचूट, करनाल के प्रबन्धतात्पत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, मनुवंश में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संख्या एल-42012/37/89-ई. 2(बी) (भाग)]

के. बी. बी. उष्णी, डैस्ट्रिक्ट अधिकारी

New Delhi, the 26th May, 1994

S.O. 1380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Dairy Research Instt. Karnal and their workmen, which was received by the Central Government on 24-5-1994.

[No. L-42012/37/89-D-II(B)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH
Case No. ID. 1/90

Dhola Ram Vs. National Dairy Research Instt.

For the workman : None.

For the management : Shri A. C. Chaudhary.

AWARD

Central Government vide gazette notification No. L-42012/37/89-D.III(B) dated 27th December, 1989 issued U/s 10(1)(d) of Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of National Dairy Research Instt. Karnal in terminating the services of Shri Bhola Ram S/c Shri Devi Lal, daily rated workman w.c.f. 30-6-85 is just ? If not what relief the workman concerned is entitled to ?"

2. Brief facts as alleged in the statement of claim that the petitioner had worked with the respondent management in 1976, 1977 and thereafter in 1984, 1985. He has alleged that he completed more than 240 days within a calendar year. His services were terminated without following the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 as he was not paid retrenchment compensation and pay in lieu of notice as provided in Chapter V of the Industrial Disputes Act 1947 and, therefore his termination is bad in law and liable to be quashed. He has thus sought the reinstatement with full back wages and continuity of service with all consequential benefits.

3. The management in their written statement has taken preliminary objection that NDRD is not an industry and does not come in the purview of Industrial Disputes Act, 1947 and the petition deserves to be dismissed. On merits the plea of the management that the petitioner was engaged as daily paid labourer on daily wage basis for the specific period to perform temporary work. He has worked with the management as detailed below :

(i) November, 1976	7 days
December, 1976	26 days
January, 1977	26 days
February, 1977	24 days
March, 1977	27 days
April 1977	30 days
May, 1977	31 days
June, 1977	15 days
(ii) August, 1977	11 days
September, 1977	30 days
October, 1977	31 days
(iii) October, 1978	31 days
& November, 1978	17 days

(iv) October, 1983	19 days
November, 1983	30 days
December, 1983	31 days
January, 1984	15 days
(v) September, 1984	21 days
October, 1984	17 days
November, 1984	30 days
December, 1984	31 days
January, 1985	9 days
February, 1985	11 days
March, 1985	28 days
June, 1985	30 days

The petitioner had never completed 240 days in a calendar year continuously and thus provisions of Chapter V of the Industrial Disputes Act, 1947 has no application in the circumstances of the present case. He was engaged on purely daily wage basis for short duration and thus he is not entitled to any compensation and no notice is required to be given as he was not regular employee of the institution. The management has thus sought the dismissal of this reference.

4. The petitioner despite having filed his affidavit did not put up appearance to authenticate the same evidence of the petitioner was closed by the order of this court dated 2-11-1993. MWI Capt. Mehar Singh is the management's witness. He filed his affidavit Ex. M-1. He also relied on the documents Ex. M-2. In cross-examination he has denied the suggestion that the petitioner had worked for more than 240 days in preceding 12 calendar months. He has also denied having made any fresh employment after termination of the services of the petitioner. The management closed their evidence.

5. I have heard the counsel for the management, gone through the record and evidence.

6. The petitioner in order to have protection of Section 25-F of the Industrial Disputes Act, 1947 has to establish that he had completed 240 days preceding 12 calendar months from the date of alleged termination i.e. 30-6-1985 referred in term of reference. In this context Ext. M2 is the statement showing the number of days put in by the petitioner is very relevant. After perusing the same the petitioner after 1978 had not worked at all in the years 1979 to 1982. He had put in only 80 days in 1983, 114 days in 1984 and 78 days in the year 1985 upto 30-6-1985. It is thus quite apparent that he in preceding 12 calendar months from the date of termination has not completed 240 days. The petitioner having not completed stipulated one year continuous service as defined in Section 25-B of the Industrial Disputes Act, 1947 does not qualify himself under the protection of Section 25-F of the Industrial Disputes Act, 1947 and obviously it was not mandatory for the management to have served notice to have pay wages in lieu of notice and retrenchment compensation to the petitioner. The management therefore, has not contravened any provisions of Industrial Disputes Act, 1947.

7. The petitioner only in cross examination of the management's witness has put the violation of Section 25-H of the I.D. Act, 1947 which has neither pleaded nor proved. In his statement of claim also he has not shown that who has been appointed against that very post on which he was working and when the said appointment had taken place. Therefore, the petitioner miserably failed to establish any violation of Section 25-H of the Industrial Dispute Act, 1947.

8. Hence nothing survive in the proceedings initiated by the petitioner. He is not entitled to any relief what-so-ever. The reference is dismissed and returned to the Ministry.

Chandigarh.

10-5-1994.

SHRI ARVIND KUMAR, Presiding Officer

नई दिल्ली, 26 मई, 1994

का, आ. 1381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्किएलोजिकल सर्वे ऑफ इण्डिया के प्रबन्धसंतत के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-1994 को प्राप्त हुआ था।

[संख्या एल-42012/23/90-आई.आर. (डी.यू.) (भाग)]

[एल-42012/25/90-आई.आर. (डी.यू.) (भाग)]

[एल-42012/26/90-आई.आर. (डी.यू.) (भाग)]

[एल-42012/27/90-आई.आर. (डी.यू.) (भाग)]

[एल-42012/28/90-आई.आर. (डी.यू.) (भाग)]

के. बी. उष्णी, डैस्क अधिकारी

New Delhi, the 26th May, 1994

S.O. 1381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Archaeological Survey of India and their workmen, which was received by the Central Government on 24-5-1994.

[No. L-42012/23/90-IR(DU)(Pt.)]

[No. L-42012/25/90-IR(DU)(Pt.)]

[No. L-42012/26/90-IR(DU)(Pt.)]

[No. L-42012/27/90-IR(DU)(Pt.)]

[No. L-42012/28/90-IR(DU)(Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, this 18th day of May, 1994

PRESENT:

Sri M. B. Vishwanath, B.Sc., B.L., Presiding Officer.

Central Ref. No. 64/90

Central Ref. No. 66/90

Central Ref. No. 67/90

Central Ref. No. 68/90

Central Ref. No. 69/90

I party

V/s.

II party

Manjunatha

S/o Thippanna,

III Ward,

Kamalapur P.O.

Hospet Taluk,

Bellary Dist. 583221.

(I party in C.R. 64/90)

Ramachandra

S/o Pampathi,

7th Ward, Annebhavi,

Kamalapur P.O.

Bellary Dist. 583221.

(I party in C.R. 66/90)

Hanumanthappa,

S/o Raju III Ward,

Kamalapur P.O.

Bellary Dist. 583221.

(I party in C.R. 67/90)

Lakshminarayana,

II Party

S/o Marisomappa,
19th Ward, Bellary Road,
Geetaseva Ashrama,
Hospet-583201.
(I party in C.R. 68/90)

1. The Superintending

Archaeologist,
Archaeological Survey of India.
Bangalore Circle,
4 'T' Block, Jayanagar,
Bangalore-560041.

2. The Dy. Superintending
Archaeologist, A.S.I.,
Hampi National Project,
Kamalapur O.P.
Bellary Dist.-583221.
(II party common in all
references)

(By Sri J. M. Riazuddin,
Central Govt. Pleader)

Yenkanagouda,
S/o Basavanagouda,
I Ward, Near Old Bus Stand,
Kamalapur P.O.
Hospet Taluk,
Bellary Dist. 583221.
(I party in C.R. 69/90)

(By Sri J. V. Pai, Advocate)

COMMON AWARD

In these reference made by the Hon'ble Central Government by its Order Nos. L-42012/23/90-IR (DU) dated 9-11-1990, No. L. 42012/25/90-IR (DU) dated 9-11-1990, No. L. 42012/26/90-IR (DU) dated 9-11-1990, No. L. 42012/27/90-IR (DU) dated 9-11-1990 and No. L. 42012/28/90-IR (DU) dated 9-11-90 under Section 10(2A)(1)(d) of I.D. Act the point for adjudication is exactly similar except that in each case the I party workman is different. For the purpose of appreciation of facts and the point for adjudication, I will refer to the facts in C.R. 64/90. The point for adjudication, as per schedule to the reference in C.R. 64/90 is :—

"Whether the action on the part of the Archaeological Survey of India, Hampi National Project, Kamalapur under Archaeological Survey of India, Bangalore Circle, Bangalore in terminating the services of Sri Manjunath s/o Thippanna, Ex. Chowkidar without conducting departmental enquiry is justified? If not, to what relief the workman is entitled to?"

2. The I party was working as a watchman in the Hampi National Project, Kamalapur of II party since 1984 on daily wages. The services of I party was terminated by II party No. 2 alongwith 5 others vide Order No. HNP/Misc./88-Admn. 172 dated 31-8-89. The termination of the services of the I party and others is thoroughly illegal and mala fide.

3. The termination of the service of the workman was affected for his alleged involvement in theft of chain pulley block though the I party was not assigned to watch/guard the area from where the chain pulley block was alleged missing. The services of the I party was terminated without conducting any enquiry. The I party was denied reasonable opportunity and natural justice. The charges/allegations levelled against the I party are not proved and are concocted. The termination of the service of the I party is in violation of Section 25-F of the I.D. Act and hence void ab-initio.

4. The I party has prayed for declaration that the termination of his service by the II party without holding any departmental enquiry is illegal. He has prayed that he should be reinstated with back wages.

5. In the counter statement (written statement) it is contended :—

The reference is bad since the II party Archaeological Survey of India is not an Industry. The II party is not involved in any business or manufacture to call it an industry. It is not a commercial enterprise.

Work was going on in Hazarama complex. Valuable material including chain pulley block fixed to a high derrick pole which was placed at the temple for lifting stone beams and architectural fragments. Hence for a effective watch and ward purpose some of these persons were assigned duty at a particular place to safeguard the costly materials including chain pulley block placed at the Hazarama complex. The I party men were the only persons responsible to keep a careful and regular watch of the valuable materials.

6. The derrick pulley was committed theft of on the night of 30-8-89 or in the early morning of 31-8-89. During the enquiry conducted by the Deputy Archaeologist, in charge of Hampi National Project on 31-8-89 all the members of I party admitted that they have seen the pulley block with all the chains and the poll on the evening of 30-8-89. When the Dy. Suptdg. Archaeologist questioned them about the theft they informed that they were on duty at different places and that they cannot be blamed for the theft. The pulley block tied at a height 25 feet, on the derrick pole with a hook of the pulley block with a chain to prevent it from slipping and falling down during lifting of stones. The long chain tied cannot easily be removed from the hook. The dismantling of the hook and the chain creates a metallic sound which can be heard easily in the stillness of the night.

7. The I party members alone are responsible for the theft. They deliberately failed to report the theft. An enquiry was conducted by an officer viz., Dy. Suptdg., Archaeologist on 30-8-89 and all the 6 persons including I party who were on watch and ward duty were called upon to state the circumstances leading to the theft of chain pulley block but they wanted to prove themselves not responsible for the theft instead of giving correct information which would have been very helpful to the local police to trace out the stolen Government property and to book culprits. Because of their undesirable act of not disclosing the facts, there was no other alternative except to discontinue their services forthwith.

8. There is no violation of Section 25-F of the I.D. Act. The termination of each member of I party in these 5 cases is correct. Their case does not come within the provisions of the I.D. Act. The reference in each of these cases has to be rejected.

9. As could be seen from the order sheet dated 4-12-1991 in C.R. 64/90 this Tribunal has ordered that the point for adjudication is covered by the schedule to reference and no separate issue is required. It has been made clear that all other subsidiary points would be considered at the time of final arguments.

10. In all these cases each workman has been examined in their respective cases as W.W.1 and M.Ws.1 and 2 have been examined on behalf of the II party. The evidence of M.Ws.1 and 2 have been recorded in the reference in C.R. 64/90. As could be seen from the order sheet dated 21-4-92 this evidence by consent has been treated as common evidence in the connected four cases also.

11. It is contended by the Learned Counsel for the II party that the II party is engaged in research work and is not an industry within the meaning of Section 2(j) of the I.D. Act. This need not detain the Tribunal because the law on the point has been laid down by the Supreme Court. In 1978 S.S.C. (L&S) page 215 (B.W.S.S.B. v/s. Rajappa) at pages 270 and 274 it was held that research institutes are industries. It was further held non-existence of profit-making motive or any other gainful object is an irrelevant consideration in determining whether an enterprise is an industry or not and the most decisive test for such purpose is the nature of the activity with special emphasis on the employer-employee relations. I hold that II party Archaeological Survey of India is an industry.

12. It is next maintained by the Learned counsel for the II party that the I party members were not workmen within the meaning of Section 2(s) of the I.D. Act.

13. In the case of E. Elumalai v/s. Management of Simplex Concrete Piles (India) Ltd., Madras, 1970 Lab. I.C. 1460 (Mad) the Madras High Court accepted the contention of the petitioner's counsel that the definition of the term 'workman' in Section 2(s) would include even a casual labourer.

14. In the instant cases the schedule to reference itself describes the I party as workman. Each I party was employed by the II party and each I party was working on daily wages. Each was employed to do manual and unskilled work

for hire or reward (daily wages). There is no force in the contention that the I party members are not workmen. I hold that each I party member in these 5 cases is a workman within the meaning of Section 2(s) of the I.D. Act.

15. Both counsel argued at length on whether or not the I party workman in each of these cases was responsible for the theft of the derrick pulley. It won't be proper for this Tribunal to determine whether the I party workmen are responsible for the theft or not, bearing in mind the nature of reference. What the reference says is whether the termination of the services without conducting departmental enquiry is justified. If not to what relief the workman is entitled.

16. The so-called enquiry conducted by M.W.1 was not a departmental enquiry but some sort of questioning of each I party to ascertain who had committed theft and who was responsible for it.

17. I have set out above the pleadings of the I party and II party. It is clear that the case of the II party is that the I party members were responsible for the theft of derrick pulley. The I party members have denied that they are responsible for the theft of derrick pulley. The I party workmen have produced Ex. W.3, which is the endorsement issued by the concerned police of Kamalapur which shows that as per records none of the I party member in each of these cases was involved in any offence on 30-8-89 or 31-8-89. It is argued by the Learned counsel for the II party that Ex. W.3 is not proved. There is no force in this argument because Ex. W.3 is a public document.

18. So what emerges. The allegations of theft or abetment of theft against a workman is a serious offence under the I.P.C. even. It is obvious that it amounts to gross misconduct, and stigma on the workman. The termination of services of each workman amounts to punishment. The II party has not conducted any departmental enquiry against I party workmen. II party has not complied with the conditions for retrenchment as contemplated under Section 25-F of the I.D. Act. I have no hesitation in holding that the termination of each of the I party workman in these cases, without holding a departmental enquiry is illegal. Departmental enquiry is a must.

19. All other documents and evidence not referred to by me are not relevant. In any case they do not alter my conclusions reached above.

ORDER

The termination of the services of each of the I party workman in these five cases C.R. 64/90, C.R. 66/90, C.R. 67/90, C.R. 68/90 and C.R. 69/90 is set aside. II party is directed to reinstate forthwith each of the I party workman with continuity of service. The II party shall pay 50 per cent of back wages to each of the I party workman from the date of termination i.e., 31-8-89. Reference accepted as stated herein. Submit to Government.

(Dictated to Stenographer, typed by him, corrected, signed by me on this 18th day of May, 1994.)

M. B. VISHWANATH, Presiding Officer

नई दिल्ली 27 मई 1994

का. आ.—1382 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 से अनुसरण में केन्द्रीय सरकार भारत गोल्ड माइन्स नि. के प्रबन्धसंतान के मंबद्ध नियोजकों और उनके कर्मकारों के बीच अनवंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के घंटपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 19-5-1994 को प्राप्त हुआ था।

[संख्या एल-43011/2/92-आई.आर. (विविध)]

के. वी. वी. उमी, डैम्प अधिकारी

New Delhi, the 27th May, 1994

S.O. 1382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of B.G.M.L. and their workmen, which was received by the Central Government on 19th May, 1994.

[No. L-43011/2/92-IR (Misc.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 13th day of May, 1994

PRESENT :
Sri M. B. Vishwanath, B.Sc., B.L., Presiding Officer.
Central Reference No. 14/93

I Party :

The President,
Chigaraugunta Gold Mines Workers, Union,
10-330, Sarojini Road,
Ananthapur, (A.P.).

V/s.

II Party

The Chairman,
Bharath Gold Mines Ltd.
Corgaum, K.G.F.
(By Smt. G. R. Sujatha, Adv.).

AWARD

In this reference made by the Hon'ble Central Government by its order No. L-43011/2/92-IR (Misc.), dated 12th February, 1993 under Section 10(2A)(1)(d) of the I.D. Act the point for adjudication as per schedule to reference is:—

“Whether the action of the management of B.G.M.L., K.G.F. in denying absorption/regularisation to 16 workmen of Chigaraugunta Gold Mines is justified ? If not, to what relief they entitled ?”

2. As per the reference the I party is the President, Chigaraugunta Mine Workers' Union, 10-330, Sarojini Road, Ananthapur, (A.P.) After the reference was registered by this Tribunal, notice was issued to the I party in the usual course by post. One M. Anjaneyulu, General Secretary of the I party Union was present on the first hearing day 17th March, 1993. Then he has made himself scarce. Though 10 adjournments were granted to enable the I party to file the claim statement, there was no representation on behalf of the I party after the case was adjourned for claim statement from 17th March, 1993 to 2nd September, 1993.

3. Since the fortunes of workmen are involved, this Tribunal by way of abundant precaution ordered on 2nd September, 1993 issue of fresh notice to I party by R.P.A.D. and the case was posted for claim statement to 4th October, 1993.

4. It is seen from the records that the notice issued by R.P.A.D. has been served on the I party. Postal acknowledgement has been received by this Tribunal. Even so nobody was present on behalf of the I party though more than dozen adjournment were granted. The case was therefore posted for evidence.

5. On 13th May, 1994 on behalf of the II party M.W.1 Joseph who is the Personnel Manager has been examined. The evidence of I party has been taken closed.

6. M.W.1 has spoken to the relevant documents of the selection of candidates sponsored through employment exchange. I find nothing irregular in the mode of selection made by the Interview Committee.

7. There is another ground on which the reference has to be rejected. There is no annexure to the reference specifying who are the 16 workmen of Chigaraugunta Mines who were denied absorption or regularisation. The I party (President of the Union) has not come and enlightened or contested the reference. Under these circumstances this Tribunal cannot pass any award in a vacuum. The reference has to be necessarily rejected. Accordingly the reference is rejected. Submit to Government.

Award passed rejecting the reference.

(Dictated to Stenographer, typed by him, corrected, signed by me on this 13th day of May, 1994).

M. B. VISHWANATH, Presiding Officer

नई दिल्ली, 18 मई, 1994

कान्त्रा. 1383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार, मैसर्स इंडियन ऑफरन एंड स्टील कंपनी लिमि. की चासनाला कोलियरी के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2), धनबाद के पंचपट को प्रकाशत करती है जो केन्द्रीय सरकार को 18-5-94 को प्राप्त हुआ था।

[संघा एल-20012/115/86-डी-3(ए)/आईआर(कोल-1)
वी. के. शर्मा, डैस्क्रिप्टिविकारी

New Delhi, the 18th May, 1994

S.O. 1383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. II), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Chasnala Colliery of M/s. Indian Iron & Steel Company Ltd, and their workmen, which was received by the Central Government on 18th May, 1994.

[No. L-20012/115/86-D.III(A)/IR (Coal-I)]

V. K. SHARMA, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.
In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 294 of 1986

PARTIES :

Employers in relation to the management of Chasnala Colliery of Messrs. Indian Iron and Steel Company Limited

AND

Their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE Bihar. INDUSTRY : Coal.

Dhanbad, the 11th May, 1994

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(115)/86-D.III(A), dated, the 10th August, 1986.

SCHEDULE

"Whether the demand of Bihar Colliery Kamgar Union that the management of the Chasnala Colliery of M/s. Indian Iron & Steel Company Limited should give promotion to Shri B. D. Singh, Overman as Senior Overman from the date on which he was superseded by the promotion of other workmen junior to him is justified? If not, to what relief is the workman concerned entitled?"

2. In this reference Bihar Colliery Kamgar Union has demanded promotion of Shri B. D. Singh from Overman to Sr. Overman from the management of Chasnala Colliery of M/s. IISC Ltd. with effect from the date on which he was superseded by the promotion of other workmen junior to him.

3. W.S. has been filed on behalf of the workmen stating that the concerned workman was appointed as permanent overman in the year 1964 and since then he has been working as such to the best satisfaction of the management. It

was stated that the management promoted junior workmen as Sr. Overman superseding the claim of the concerned workman just to harass and victimise him. In the W.S. a number of instances have been cited as for example Sri B. K. Singh, who appointed as Mining Sirdar in the year 1970, got promotion as Overman in 1973 and subsequently he was promoted as Sr. Overman on 15th March, 1985. The workman has cited the instance of Shri M. B. Dutta, A. N. Singh, T. N. Singh, Kameshwar Singh, N. K. Roy and others.

3. The aforesaid workmen are junior to the concerned workman but they were promoted and the claim of the concerned workman was denied. It is stated that the concerned workman represented before the management several times against illegal and arbitrary promotion of the junior workmen and denial of his promotion but the management did not pay any heed to the repeated demand of the concerned workman. Even the conciliation proceeding failed giving rise to the present reference. The concerned workman has prayed that he be promoted as Sr. Overman with retrospective effect from the date his juniors were promoted, with all attendant benefits.

4. The management filed W.S. denying the claim of the concerned workman. It was stated that promotions of the Overman to the post of Sr. Overman is done only on the basis of merit. It was also stated that the claim of the concerned workman is over stale and it should not be allowed. It was contended that the selection were always made on the basis of merit and not the seniority and accordingly the concerned workman was not found fit whenever selection was made. If he had any grievance he should have made representations at the relevant time but he did not do so and this shows that he had no cause whatsoever and those who were promoted were meritorious.

5. The post of Sr. Overman was advertised in the year 1984 and in response to that advertisement six Overmen applied for the post of Sr. Overman and out of them only four were selected by the D.P.C. Sri B. D. Singh was not found suitable even at that time and hence he was not promoted.

6. It was further contended that at the time when the interview of the Overman was held in the year 1984 the concerned workman stated that he would not work in open cast mine as he would not get underground allowance in that case and he took a stand that he must continue to get underground allowance even he works in open cast mine.

7. While giving parawise reply to the W.S. of the concerned workman it was reiterated that selection to the post of Sr. Overman was always made on the basis of merit and not on the basis of mere seniority. The management admitted that a number of overmen were given promotion within a very short span of time only because they were found meritorious. It was stated that Shri B. K. Singh was promoted as Overman in 1973 and he got promotion as Sr. Overman in the year 1985. Similarly Shri M. B. Dutta was appointed as Overman in the year 1972 and he got promotion as Overman in the year 1973. Similarly Shri A. N. Singh also got promotion within the span of only 3 years time. The management cited the example of Kameshwar Singh also who was promoted to the post of Overman in the year 1976 and later on he got promotion as Senior Overman with six additional increments. It is stated that he was found to be extraordinary meritorious candidate. In this way the management impressed upon that the promotion to the post of Sr. Overman was always made on the basis of merit and not the seniority. On these grounds it was submitted that the concerned workman has got no claim and the reference be answered in favour of the management.

8. The question for consideration would be as to whether the concerned workman can be given promotion as Sr. Overman with effect from the date and the year his juniors were promoted with all consequential benefits.

9. From the pleadings of the parties it is clear that the management has been given promotion from Overman to Sr. Overman solely on the basis of merit. But the union claims such promotion on the basis of seniority. Shri B. D. Singh, while depositing as WW-1 stated that he was claiming his promotion on the ground that he was senior from others. Admittedly he was appointed as Overman in the year 1964. It is equally true that the management has given promotion to several workmen within very short span of time

on the basis of merit. In the W.S. a number of example have been cited like the case of Shri B. K. Singh, B. M. Dutta, D. N. Singh and Shri Kameshwar Singh and others.

10. The concerned workman (WW-1) has denied that all such promotions were made on the basis of merit on the other hand MW-1 Shri S. N. Choudhury, Asstt. General Manager has stated that the promotion to the post of Sr. Overman was always given on the basis of past performance plus the merit WW-1 stated that he was always given assurance orally that the management will give his due promotion. However, MW-1 has denied that the concerned workman was given any such assurance. The witness also stated that Shri B. D. Singh, the concerned workman never represented his case before the management that his juniors have already been promoted and therefore he should also be promoted. The witness has cited the instances of Shri S. C. Roy Burman, T.K. Ghosh, A. K. Choudhury, Shiv V. Mishra and others who got quick promotion on account of their merit and performance. The witness added that their performance was quite upto the mark in comparison to Shri B. D. Singh, the concerned workman. In cross-examination the witness stated that he had given several letters of warning and show cause to the concerned workman for not performing his duties to the satisfaction of the management. Curiously enough not a single such letter or the show cause has been filed just to appreciate this stand. Admittedly the concerned workman was also never subjected to any criminal prosecution for not performing the statutory duty.

11. MW-1 has further stated that no character roll is maintained either for Mining Sirdars or the Overman. Of course there were some documents to show the quality and performance of each and every overman and those documents will state about the daily production report. Admittedly, none of those documents has been filed to show that quality and quantity of production of the concerned workman was inferior and low in comparison to others. In the circumstances, I find no reason as to what were the basis to hold that the concerned workman was so inferior in merit and that he did not qualify the test held by the D.P.C. for selection to the post of Senior Overman. Admittedly, he is an overman since 1964. When there is no adverse remark then presumption would be that he had been doing the work of Overman to the satisfaction of the management. It may not be out of place to mention that one acquires efficiency and merit by regular practice. Since the concerned workman was doing as Overman since 1964 it was expected that he must have acquired efficiency in the work and that was his merit and quality for the job.

12. The witness stated that a D.P.C. was held in the year 1984 and the case of the concerned workman was examined and considered. However, the union denied that the concerned workman was summoned to appear before the D.P.C. I find that the record of the D.P.C. held in 1984 has been brought on the record and marked as Ext. M-1. From the record I find that there were four members of the committee including MW-1 Shri S. N. Choudhury. They had done separate markings on different counts. As regards recommendation for promotion to the post of Sr. Overman they all have written that promotions without underground allowance was not acceptable to the candidate. This impliedly goes to show that the committee would have considered the case of the concerned workman favourably for his promotion had he accepted promotion without underground allowance.

13. As regards markings I find that there was no fixed norms and standard. On the count of knowledge and analytical ability two learned members gave poor marks which varied from 3 to 7 out of 20. Again on the count of experience he got 10 out of 20 by one learned member. The candidate was required to obtain 60 per cent marks out of 100. The total marks was 100 only and in this way the concerned workman was required to obtain 60 marks for his promotion to the post of Senior Overman. The document shows that the maximum marks obtained by the concerned workman was 58 out of 100. This means he was left out only by two marks. I am to hold that on account of long experience the concerned workman should have been given a bit good marks on the count of experience and knowledge.

14. I have examined various aspects of the matter. The concerned workman has been doing as Overman since 1964 and as stated by MW-1 he was promoted to the post of

Sr. Overman only in the year 1991. I find that his performances before the D.P.C. in the year 1984 was not so poor which could have driven the learned members to form a poor opinion about him. Apart from that the endorsement made by them were suggestive of the fact that he would have been promoted had he accepted it without underground allowance. After having examination all these aspects I am to hold that the concerned workman is entitled for his promotion to the post of Sr. Overman with effect from 1985. He is declared to have passed the test of D.P.C. held in 1984 and accordingly the management is directed to place him as Sr. Overman with effect from the year 1985 with all consequential benefits within three months from the date of publication of the Award.

This is my Award.

B. RAM, Presiding Officer

नई दिल्ली, 20 मई, 1994

का. आ. 1384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-94 को प्राप्त हुआ था।

[संख्या एल-12011/(10)/88-डी III(ए)/बीI]

वी. के. शर्मा, डैस्क अधिकारी

New Delhi, the 20th May, 1994

S.O. 1384.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 19-5-94.

[No. L-12011(10)/88-D.III(A).B-I]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

Tuesday, the 5th day of April, 1994

Present :

THIRU K. SAMPATH KUMARAN, B.A., B.L., Industrial Tribunal

INDUSTRIAL DISPUTE NO. 2/1989

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of State Bank of India, Madras).

BETWEEN

The workmen represented by
The General Secretary,
State Bank Workmen Staff Union,
62-A, Gangu Street,
Egmore,
Madras-600 008.

AND

The Chief General Manager.
State Bank of India, LHO,
21, Rajal Sajai,
Madras-600 001.

REFERENCE :

Order No. L-12011(10)/88-D.III(A) dated 29-12-88, Ministry of Labour, Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru T. S. Gopalan, Advocate appearing for the Management upon perusing the reference, Claim and coun-

ter statements and other connected papers on record and the workmen being absent, this Tribunal pass the following.

AWARD

This dispute between the workmen and the management of State Bank of India, Madras arises out of a reference by Ministry of Labour, Government of India, for adjudication of the following issue :

"Whether the Management of State Bank of India is justified in appointing Canteen Managers, overlooking the seniority ? If not, what relief, the senior employees are entitled to ?"

Respondent is ready.

No representation for petitioner. Petitioner called absent.
(Passed over 10.55 a.m.).

Once again called at 3.20 p.m. Petitioner called absent.
No representation for petitioner. Industrial dispute dismissed for default. No costs.

Dated, this the 5th day of April, 1994.

K. SAMPATH KUMARAN, Industrial Tribunal

नई दिल्ली, 20 मई, 1994

का.आ. 1385.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, इंडियन बैंक के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-5-94 को प्राप्त हुआ था।

[संख्या एल-12012/166/93-आई आर. (बी-2)]
बी. के. शर्मा, डैस्क अधिकारी

New Delhi, the 20th May, 1994

S.O. 1385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, MADRAS as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of INDIAN BANK and their workmen, which was received by the Central Government on 19-5-94.

[No. I-12012/166/93-IR(B-II)]
V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
MADRAS

Friday, the 15th day of April, 1994

Present :

THIRU K. SAMPATH KUMARAN, B.A.B.L., Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 102/93

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Indian Bank, Madras).

BETWEEN

The Workmen represented by
The General Secretary,
Indian Bank Employees' Union,
No. 25, II Line Beach,
MADRAS-600 001.

AND

The General Manager,
Indian Bank,
31, Rajaji Salai,
Madras-600 001.

REFERENCE :

Order No. I-12012/166/93-IR(B-II), dated 4-11-93, Ministry of Labour, Government of India, New Delhi.

This dispute coming on this day for final disposal in the presence of Tvl. S. Vaidyanathan and K. Indira for Tvl. Row and Reddy, Advocates appearing for the workmen and of Tvl. R. Arumugham and L. Haribabu, for Tvl. Aiyar & Dolia, Advocates appearing for the Management, and the Claim statement of the workman having not been filed, this Tribunal passed the following.

AWARD

This dispute between the workman and the Management of Indian Bank Madras arises out of a reference of Ministry of Labour, Govt. of India, for adjudication of the following issue :

"Whether the action of the management of Indian Bank in keeping Shri G. Ramanathan under suspension from 14-9-1981 to 22-12-1988 and imposing a punishment of stoppage of 2 increments with cumulative effect on him is justified ? If not to what relief he is entitled?"

Claim statement not filed. Further time refused.

Petitioner called absent Industrial dispute dismissed for default.

Dated, this the 15th day of April, 1994.

THIRU K. SAMPATH KUMARAN B.A.,B.L. Industrial Tribunal.

नई दिल्ली, 26 मई, 1994

का.आ. 1386.—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे के प्रबंधतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संख्या एल-41012/51/87-डी II (बी)/आई.आर.बी. I]
बी. के. शर्मा, डैस्क अधिकारी

New Delhi, the 26th May, 1994

S.O. 1386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway and their workmen, which was received by the Central Government on the 24th May, 1994.

[L-41012/51/87-D.II (B)II RB-I]
V. K. SHARMA, Desk Officer.

ANNEXURE

BEFORE SHRI ARVIND KUMAR, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. ID 8/89

Mansa Ram Vs. Northern Railway

For the workman : Shri H. K. Sharma

For the management : Shri N. K. Zakhmi

AWARD

Central Govt. vide g zette notification no. L-41012/51/87-D.II(B) dated 16-1-86 issued U/s 10(1)(d) of Industrial Dispute Act 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Divisional Railway Manager, Northern Railway, Ferozepur in reverting back Sri Mansa Ram from the post of Projectionist to his parent post as Draftsman without pay protection is justified ? If not, what relief the workman is entitled to and from which date ?".

2. In this Award application No. LCA 1844/87 filed by the petitioner is also disposed of being it involve the same question of law and facts.

3. Brief facts as alleged in the statement of claim that he was working as projectionist from 1-10-1977 whereas he was being paid wages in lower grade. He also earned awards and commendations for his performance as projectionist. He filed an application No. LCA No. 225/85 in the Labour Court on the basis of 'equal pay for equal work'. The Court vide order dated 24-2-1986 directed the management to fix up his pay in the scale of projectionist i.e. Rs. 425-600 from 1-10-1977 and to clear up to date arrears. The management on 10-9-1986 fixed his pay in the scale of projectionist i.e. 425-600 from 1-10-1977 and paid arrears. Apprehending the reversion of the petitioner the Union raised the industrial dispute as strike notice in which Asstt. Labour Commissioner (C) Chandigarh not to change the service condition of the petitioner during the pendency of such proceedings Union also issued notice on 29-9-1986 informing the management about its obligations to observe Section 33 of the Industrial Disputes Act 1947. However the management reverted the petitioner to his post of draftsman in the grade of Rs. 330-560 (AS) and also reduced his pay to Rs. 428. He reported for work on 1-10-1986 under protest. He made several representations to the general manager Northern Rly. against the illegal orders putting him on lower grade post of category other than of projectionist but no reply. He filed an LCA No. 1844/86 which was later on withdrawn by him. The petitioner has alleged that action of the management in reverting the petitioner from the post of projectionist to his parent post as draftsman is not justified and the reversion order is bad without following the procedure laid down in Discipline and Appeal Rules 1968 and in contravention of Section 33 of the Industrial Disputes Act 1947 and thus has prayed for setting aside the reversion order and for the protection of pay in the grade of 425-600 of the projectionist even if the post is abolished.

4. The management in their written statement has taken the plea that the petitioner was allowed to work as projectionist on adhoc and temporary basis against the work charge post for which sanction was received from time to time. The management has admitted the order passed in LCA 225 of 1985 and its compliance. The plea of the management that the post was purely temporary being all sanctions was received from time to time and since no sanction/extension was granted by the competent authority and such he was reverted back to his substantive post. The management has further pleaded that he has been paid all his legal wages as projectionist for the period he worked as projectionist. Since there is no post of projectionist in existence w.e.f. 18-9-1986 he has no legal right on that post. He joined his substantive post i.e. draftsman on 1-10-1986 and the post of projectionist is no more in existence. Therefore, the order of management in reverting the petitioner to his substantive post of draftsman is legal, proper just and fair and sought the dismissal of this reference.

5. The petitioner filed his affidavit Ex. W1 in evidence. He has denied that after 1986 no post of projectionist is in existence. He has also annexed number of documents but the same were not exhibited. The management had not produced their written despite last opportunity, therefore, evidence of the management was closed vide order dated 21-1-1994.

6. The petitioner in LCA No. 1986/87 has sought the difference of wages of asstt. draftsman and projectionist on the ground that he has illegally and unlawfully reverted to the post of asstt. draftsman in the scale of Rs. 330-560 (AS) and his pay was reduced to Rs. 428/- in the grade of Rs. 330-560. The management in written statement has also taken the similar stand as in the reference. The petitioner in his evidence has also relied on documents Ex. W2 to W6 along with his affidavit Ex. W1. Evidence of the management was also closed by the order of this Court as done in the reference.

7. I have heard both the parties, gone through the evidence and record.

8. Representative of the petitioner has argued that reversion order passed by the management reverting to the petitioner to the post of draftsman from that of projectionists without

affording any opportunity to the petitioner and without issuing any notice U/S 9-A of the Industrial Disputes Act is illegal and deserves to be set-aside and the petitioner is entitled to draw the pay attached to the post of projectionist. There is force in this contention. The petitioner who was working as tracer in the year 1977 was posted against the post of projectionist vide order dated 30-9-1977. No doubt the said posting was for a period of one year but the petitioner had continued for the long time on the post of projectionist. He was since not paid the salary attached to the pos of projectionist. He sought intervention of this Court. The Labour Court vide order dated 24-9-1986 copy of which has been placed on the record allowed his claim for the grant of pay attached to the post of projectionist on which he was working with the direction to the management to take immediate steps for fixing up the pay of the petitioner in the relevant scale of projectionist from 1-10-1977 and clear off his upto date arrears. The management had fixed the pay of the petitioner in the grade of Rs. 425-600 attached to the post of projectionist vide order dated 10-9-1986 but however the management reverted the petitioner immediately on 19-9-1986 and reduced his pay without any notice to the petitioner and without affording any opportunity to the petitioner. The reversion order is reproduced as under :

Shri Mansa Ram temporary projectionist attached with the Civil Defence Organisation against a temporary post is reverted to his substantive post of Draftsman Engineering Department, Grade Rs. 330-560 (RS) with immediate effect. He will draw Rs. 428/- in grade Rs. 330-560 (RS).

This issue with the approval of ADRM.

Sd/-

Divisional Personnel Officer
N. Rly. Ferozepur.
19th September, 1986.

The management once had fixed the pay of the petitioner in grade of projectionist. The same cannot be withdrawn without serving notice to the petitioner U/S 9-A of the Industrial Disputes Act 1947. The respondent management without serving notice, without hearing the petitioner unilaterally had reverted him and had withdrawn the grade attached to the post of projectionist thus has varied the conditions of his service to his detriment. The same is in contravention of the provisions of Section 9-A of the Act is a nullity and void-ab-initio. The ratio of Tanta Cooperative Sugar Mills Ltd. Vs. Labour Court Jalandhar and another reported in 1987 (1) S.L.R. page 273 is followed.

9. The counsel for the management has pointed out that the reversion of the petitioner had taken place since the post of projectionist had ceased to exist. This plea can not be accepted for want of any evidence in this regard. The management has not shown any document indicating the decision of the management for discontinuing the post of projectionist for want of any sanction or after strike notice. Atleast if there was any decision of the management for discontinuing the post of projectionist the same should have some reflection in the reversion order itself. However the reversion order dated 19-9-1986 reproduced above is absolutely silent in this respect. The petitioner has categorically denied that he was allowed to work as projectionist against the work charge post. He has also categorically denied that after 1986 no post of projectionist exist. It has not even been suggested to the petitioner that the post had ceased to exist after 1986. However the circumstances in the present case shows that the order of reversion is passed on account of vindictiveness. The petitioner was fixed in the grade of projectionist only on 10-9-1986 by the order of the Court. However after 9 days of fixing pay of the petitioner in the grade of projectionist reverted him to the post of asstt. draftsman.

10. The matter does not rest there. The petitioner had worked on the same post for 9 years from 1977 till his reversion on 19-9-1986 and had also earned awards and commendations for his performance as projectionist during the said period as apparent from the certificates Ex. W3 to Ex. W5 placed in connected LCA No. 1844/87 and in such situation the reversion order can not be passed without hearing the petitioner. The ratio of judgement Horday Singh Vs. State of Haryina and others reported in 1992(2) R.S.J. page 492 is followed, wherein it has been observed as under :

"That if any order detriment to the interest of a Govt. employee is passed, the concerned employee has a right to know the circumstances/background, which led to the passing of the impugned order. Admittedly, in the instant case no opportunity of being heard, was afforded to the petitioner. No reason in the impugned order for reverting the petitioner has been recorded. As such, the impugned order of reversion being against equity and violative of principles of natural justice is liable to be quashed."

11. In view of the discussions made in the earlier paras, the reversion order is certainly illegal and unconstitutional and same is set aside. The petitioner is entitled to the benefit of pay protection for the post of projectionist in the grade of Rs. 425-600. The management is however at liberty to re-appraise the case of the petitioner and to pass any appropriate order in accordance with the law and rules. The needful be done within three months from the publication of the award. Till then the petitioner shall continue to draw the pay of projectionist. The LCA No. 1844/87 is also stands disposed off accordingly.
Chandigarh.

10-5-1994.

SHRI ARVIND KUMAR Presiding Officer.

आदेश

नई दिल्ली, 24 मई, 1994

का. आ. 1387.—जबकि भारत सरकार के श्रम और रोजगार विभाग की दिनांक 28 मई, 1968 की अधिसूचना संख्या का.आ. 1970 के अधीन गठित श्रम न्यायालय संघ्या-2 वम्बई के पीठासीन अधिकारी का पद रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 के उपवंशों के अनुसरण में, केन्द्रीय सरकार एतद्वारा श्री एस. बी. पन्से को 28 अप्रैल, 1994 (पूर्वाह्न) से उक्त श्रम न्यायालय संघ्या-2 का पीठासीन अधिकारी नियुक्त करती है।

[सं. ए-11016/2/93-सी.एल.एस-II]

गोपाल सिंह, अवर सचिव

ORDER

New Delhi, the 24th May, 1994

S.O. 1387.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Labour Court No. 2, Bombay constituted by the Notification of the Government of India in the then Department of Labour and Employment No. S.O. 1970 dated the 28th May, 1968;

Now therefore in pursuance of the provisions of Section 8 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby appoints Shri S. B. Panse, as the Presiding Officer of the said Labour Court No. 2, with effect from the forenoon of 28th April, 1994.

[File No. A 11016/2/93-CLS-II]
GOPAL SINGH, Under Secy.

आदेश

नई दिल्ली, 24 मई, 1994

का. आ. 1388.—जबकि दिनांक 24 अगस्त, 1966 की अधिसूचना संख्या का.आ. 2652 के तहत श्रम एवं रोजगार विभाग में भारत सरकार की अधिसूचना द्वारा गठित श्रम न्यायालय, कलकत्ता में पीठासीन अधिकारी का एक पद रिक्त हुआ है।

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के खंड-8 के प्रावधानों के अनुसरण में केन्द्र सरकार एतद्वारा श्री के. सी. जगदेव राय को 29 अप्रैल, 1994 के पूर्वाह्न से उक्त श्रम न्यायालय के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[फा. सं. ए-11016/3/93-सी.एल.एस-II]

गोपाल सिंह, अवर सचिव

ORDER

New Delhi, the 24th May, 1994

S.O. 1388.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Labour Court, Calcutta constituted by the Notification of the Government of India in the then Department of Labour and Employment Notification No. S.O. 2652 dated the 24th August 1966;

Now therefore in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri K. C. Jagadeb Roy as the Presiding Officer of the said Labour Court with effect from the forenoon of 29th April, 1994.

[File No. A-11016/3/93-CLS-II]
GOPAL SINGH, Under Secy.

आदेश

नई दिल्ली, 24 मई, 1994

का. आ. 1389.—जबकि दिनांक 24 अगस्त, 1966 की अधिसूचना संख्या 2653 के तहत श्रम एवं रोजगार विभाग में भारत सरकार की अधिसूचना द्वारा गठित औद्योगिक अधिकरण, कलकत्ता में पीठासीन अधिकारी का एक पद रिक्त हुआ है।

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) के खंड-8 के प्रावधानों के अनुसरण में केन्द्र सरकार, एतद्वारा श्री के. सी. जगदेव राय को 29 अप्रैल, 1994 के पूर्वाह्न से उक्त औद्योगिक अधिकरण के पीठासीन अधिकारी के रूप में नियुक्त करती है।

[फा. सं. ए-11016/3/93-सी.एल.एस-II]

गोपाल सिंह, अवर सचिव

ORDER

New Delhi, the 24th May, 1994

S.O. 1389.—Whereas a vacancy has occurred in the office of the Presiding Officer of the Industrial Tribunal, Calcutta constituted by the Notification of the Government of India in the Department of Labour and Employment Notification No. 2653 dated the 24th August, 1966.

Now therefore in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri K. C. Jagadeb Roy, as the Presiding Officer of the said Industrial Tribunal with effect from the forenoon of 29th April, 1994.

[File No. A-11016/3/93-CLS-II]
GOPAL SINGH, Under Secy.

आदेश

नई दिल्ली, 24 मई, 1994

का. आ. 1390.—जबकि भारत सरकार के श्रम और रोजगार विभाग की दिनांक 28 मई, 1968 की अधिसूचना

संख्या 1971 के अधीन गठित औद्योगिक अधिकरण, संख्या-2, बम्बई के पीठासीन अधिकारी का पद रिक्त हुआ है।

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 द्वारा प्रदत्त याकियों का प्रयोग करते हुए, केन्द्रीय सरकार एवं द्वारा श्री एम. वी. पनसे को 28 अप्रैल, 1994 (पूर्वाल्प) से उक्त औद्योगिक अधिकरण संख्या-2 का पीठासीन अधिकारी नियुक्त करती है।

[सं. ए-11016/2/93-सी.ए.ए.प.-II]
गोपाल मिह, अवर सचिव

ORDER

New Delhi, the 24th May, 1994

S.O. 1390.—Where a vacancy has occurred in the office of the Presiding Officer of the Industrial Tribunal No. 2, Bombay constituted by the Notification of the Government of India in the Department of Labour and Employment No. S.O. 1971 dated the 28th May, 1968;

Now therefore in pursuance of the provisions of Section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri S. B. Panse, as the Presiding Officer of the said Industrial Tribunal No. 2, with effect from the forenoon of 28th April, 1994.

[File No. A-11016/2/93-CLS II]
GOPAL SINGH, Under Secy.

नई दिल्ली, 24 मई, 1994

का.आ. 1391 :—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14 की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, भारत कोकिंग कॉल लिमि. की जीलगोरा कोसियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-5-94 को प्राप्त हुआ था।

[संख्या—एल 20012/256/90—ग्राइमार (कोल-1)]
सी. गंगाधरन, डैम्स अधिकारी

New Delhi, the 24th May, 1994

S.O. 1391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Jealgora Colliery of M/s. BCCL and their workmen, which was received by the Central Government on 23-5-1994.

[No. L-20012/256/90-IR(Coal-1)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 4 OF 1991

PARTIES :

Employers in relation to the management of Jealgora Colliery of M/s. BCCL Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar. INDUSTRY : Coal.

Dated, the 13th May, 1994

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (256)/90-I.R. (coal-1), dated, the 11th December, 1990.

SCHEDULE

"Whether the action of the management of Jealgora Colliery of M/s. BCCL, P. O. Jealgora, District Dhanbad in dismissing Shri Sheo Chand alias Sudarshan from service is justified ? If not, to what relief the workman is entitled ?"

2. This is a reference where the action of the management of Jealgora Colliery of M/s. BCCL was challenged in dismissing Shri Sheo Chand alias Sudarshan from service.

3. Sri Sheo Chand alias Sudarshan claims to be a permanent employee of Jealgora Colliery. It is stated that he was stopped from his duty illegally and arbitrarily by the erstwhile employer which was ultimately settled when the matter was pending before the Hon'ble High Court in CWJC. No. 995 of 76(R). In pursuance of the settlement and as per direction of the Hon'ble Court all the workmen of the case including the concerned workmen were directed to be taken back in the employment.

4. The concerned workman was reinstated after completion of pre-requisite condition mention in the settlement. The concerned workman stated that at the time of his initial appointment he had declared his name, father's name and permanent address before the erstwhile employer but it was the practice of the erstwhile employer to change the name of the persons after sometimes without changing the father's name only to deprive the workmen of their bonus and P.F. facilities.

5. The erstwhile management had also changed the name of the concerned workman from Seo Chand to Sudarsan. It was stated that the nick name of Seo Chand was Sudarsan and from that reason the concerned workman did not object so vehemently for change of name in the register. However, he being a poor and illiterate man could not know the necessary entries recorded in the From B Register. The concerned workman was reinstated in the year 1981. But after a lapse of seven years he was issued charge-sheet on the ground of theft, fraud and dishonesty in connection with company's business and property and for giving false information regarding name, age and father's name at the time of previous employer.

6. The concerned workman replied to the charge-sheet denying the charges emphatically. He stated that he had never submitted false information regarding his name, age and father's name before the erstwhile management. The concerned workman has prayed that he is the real man and has been illegally dismissed from the service. Accordingly he has prayed for his reinstatement with full back wages.

7. The management by filling W.S. refuted the claim of the concerned workman and supported the action of the management. It was stated that Sudarshan posed himself as Seo Chand Harijan and entered into the services of the management on 17-10-1981. According to the management one Seo Chand was working at Jealgora colliery previous belonging to M/s. East India Coal Co. and he was the man involved in the case pending before the Hon'ble Patna High Court, Ranchi Bench in CWJC No. 995/76. The above case was disposed of by the Hon'ble High Court in terms of settlement arrived at between the sponsoring union and the management. As per terms of settlement the workman named Seo Chand was to be given employment in the colliery as Miner/loader.

8. Shri Seo Chand, the concerned workman took advantage of the situation and with the help and assistance of his friends assumed the name of Seo Chand and entered into the service of the management. The management was not having any

particulars with regard to the workman concerned in that case as it was relating to the stoppage of about 500 workmen of Jealgora Colliery by the management of East India Coal Co. in the year 1965. In absence of particulars the workmen involved in that case were asked to submit affidavit in proof of their genuineness and also to furnish personal security bond in support of their claim that they were genuine workmen of Jealgora Colliery of M/s. East India Coal Co. and were concerned in aforesaid C.W.J.C.

9. The concerned workman submitted his affidavit declaring him as Seo Chand son of Deonandan Harijan of village Sekhpur, P.O. Birno, District Gazipur. He also submitted a security bond declaring him as genuine workman. On that ground the management allowed him to continue in the employment.

10. On 9-10-1987 the concerned workman Seo Chand Harijan applied to the management for correction of his name from Seo Chand to Sudarsan at the time of filling his service excerpts. On confidential enquiry it was revealed that Seo Chand Harijan was from the village Saraisedgarh, P.O. Sadabad, District Gazipur and accordingly the concerned workman was issued a charge sheet dated 15-12-1987 charging him under various clauses namely Clause 27(2), 27(17) and 27(19) of the Certified Standing orders applicable to Jealgora Colliery. According to the management the concerned workman submitted reply asserting that he was a genuine workman Seo Chand which were not correct.

11. A domestic enquiry was conducted and the concerned workman was found guilty and ultimately dismissed from service. On these grounds it was submitted that the concerned workman has got no case and the reference be answered in favour of the management holding that the action of the management is just and proper in dismissing the concerned workman from his services.

12. The propriety and fairness of the domestic enquiry has been conceded to by the learned counsel of the workmen and in the circumstances this Court has to see as to whether there were material sufficient enough before the enquiry officer holding the concerned workman guilty of the charges ?

13. The concerned workman was issued charge-sheet (Ext. M-1) for committing theft, fraud and dishonesty in connection with the Company's property and also for giving false information regarding his name, father's name and qualification at the time of initial employment which were misconduct as per several clauses of the Certified Standing Orders applicable to Jealgora Colliery. It was alleged in the charge-sheet that Seo Chand the concerned workman secured employment on 17-10-1981 by giving false declaration declaring himself as Seo Chand although his real name was Sudarshan Harijan.

14. It may be mentioned at the very outset that Jealgora Colliery was previously under the management of East India Co. Admittedly the management of the company had stopped about 500 workmen in the year 1965 and against the said stoppage the matter was pending before the Hon'ble High Court in C.W.J.C. No. 995/76(R). It is also admitted that in the meantime there was a settlement arrived at between the management and the sponsoring union and according the Hon'ble Court disposed off the matter in terms of the settlement.

15. The management contended that one Seochand was working at Jealgora Colliery and he was the concerned workman in the case pending before the High Court. It was contended that as per direction and terms of settlement Shri Seochand was to be given employment in the colliery as Miner/loader but the concerned workman took advantage of the situation and entered into the services of the management assuming false name as Seochand.

16. The concerned workman had replied to the chargesheet denying allegations. He claimed that he was the real man and his actual name was Sudarshan

but the management/company had been changing the name of the concerned workman from time to time. He asserted that in the record of the company his name stood as Seochand which he did not protest for fear of loosing the job.

17. The management was not satisfied with the reply and there was an order for domestic enquiry. He was found guilty and ultimately dismissed.

18. In the very beginning I would like to mention that the concerned workman as per terms of settlement was to be employed as Miner/loader but he was given employment as driller. The job of miner is quite different and distinct from the job of driller. The authority before giving employment should have exercised due diligence which appears to have been ignored in this case.

19. During the course of enquiry a number of witnesses were examined on behalf of the management and they all stated that the concerned workman was not the real workman and he entered the services by playing fraud upon the management. Shri A. K. Sinha represented the case of the management before the Enquiry Officer. He stated that Seochand had taken part in the illegal strike in Jealgora colliery in 1965 and he was dismissed but the concerned workman was not the real Seochand. From the evidence it appears that the witness had no personal knowledge rather he was stating on the basis of declaration made by the concerned workman in the service excerpts and in his application dt. 9-10-87 addressed to the Agent, Jealgora colliery requesting for change of his name as Sudarshan Harijan. He stated in his application that he had been working in the colliery in the name of Seachand on the basis of slip issued by one Kisto Babu. Since his name was wrongly entered into the record. From B Register of the colliery he wanted to get his correct name entered in the register.

20. The evidence of S. K. Pandey, MW-1 and M. N. Pandey, MW-2 and Y. N. Gupta MW-3 are not very material. Their evidence simply states as to how the concerned workman got his application typed and submitted before the authority for change of his name. This fact has not been denied by the concerned workman.

21. MW-4 Shri Jodhai Jaiswara and MW-5 Ganori Paswan stated that Seochand of Saraisedgarh was working in the colliery and he was the real man but Shri Somnath Beldar fraudulently allowed the concerned workman to secure employment in the colliery in the name of real man. Shri Paswan stated that real Seochand died when the case was pending before the Hon'ble High Court. The question is that this fraudulent act took place in the very presence and knowledge of these two persons but they never brought it to the notice of the management rather they allowed Sudarshan Harijan to work for years together. Shri Jodhai Jaiswara was a co-worker and atleast it was expected of him to convey to the family members of real Seochand about the nefarious deal. Shri Paswan was in know of the fact that real Seochand died. He should have informed the wife of Seochand that some imposter secured employment in the name of her husband. But I find that none of them took any such step which was the normal conduct of a

man. Keeping silence over the matter for years together will lead to an inference that all such statements are connection which cannot be relied upon. One Pancham MW-7 had also made similar statement. He was also a co-worker but he did not bring the matter to the notice of the management when employment was given to the concerned workman.

22. MW-6 Bhamia Devi claimed himself to be the wife of real Seochand. She stated that her husband died about 15 years ago and she came to know that other had secured employment in place of her husband. She stated that her husband was a resident of Saraisedgarh, P.O. Sadiabad, Distt. Gazipur. The question is that nobody had identified this lady as the wife of Seochand. Of course she had filed certificate from B.D.O. concerned showing that she was the wife of Seochand of Saaiasedgarh. But the certificate does not state that Seochand was ever in the employment of the colliery. The lady does not possess any chit of paper to show that her husband was in the employment of Jealgora colliery and in the circumstances it was very difficult to conclude that Seochand of Saraisedgarh was in the employment of Jealgora colliery.

23. The allegations is that the concerned workman was an imposter and he wanted to change his name as Seochand though he was Sudarsan Harijan. The question is if the concerned workman was really the fake men and he wanted to be replaced by a real workman then he would have prayed for change not only of the name but also of the village but he requested for change of his name simply. Sudarsan is an alias name of Seochand of the concerned workman and in order to substantiate this fact he filed a caste certificate issued by Tehsildar, Gazipur. He has been shown as Seochand alias Sudarsan of village Shekhpur in the certificate. He also produced a certificate of the same effect granted by Pradhan.

24. The concerned workman at the time of his employment had filed an affidavit that he was Seochand of village Shekhpur. He had also filed a security bond on 25-7-1981. The stipulation of security bonds reads as follows :—

"Whereas the above bounded Sri Seochand has been appointed on the 4th day of October, 1980 to the post of on the basis of the settlement dated 30-6-1979 with the Union on the terms and condition stated therein although his genuinity has not yet been ascertained."

25. As per condition the genuinity of the concerned workman was to be ascertained by the management but it appears that the management did not

take any step in this regard and the concerned workman was allowed to continue till he wrote for the change of his name in the relevant record. That took about seven years time. This means the management was satisfied so far the genuineness of the concerned workman was concerned. Had there been any doubt the management would have taken steps within the reasonable time. This means the management would have with the exercise of due diligence ascertained the genuineness or otherwise of the concerned workman within a year or two of his employment but it was not done. The learned counsel has relied upon the authority reported in AIR 1976 Supreme Court at page 376 wherein it was held that where a person on whom fraud is committed is in a position to discover the truth by due diligence which is not done then fraud is not proved. In the instant case also the position stands the same. The management after giving employment to the concerned workman in the year 1981 should have got it verified through high officials about the genuineness of the concerned workman.

26. For the reasons stated above I find that the Enquiry Officer had no sufficient materials before him to hold the concerned workman guilty of the misconduct. Therefore, the order of dismissal is set aside and the management is directed to reinstate the concerned workman with 50 per cent back wages within two months time from the date of publication of the Award. Continuity of service will be maintained.

This is my Award.

B. RAM, Presiding Officer,
Central Govt. Industrial Tribunal,
(No. 2), Dhanbad.

नई दिल्ली, 27 मई, 1994

का.आ. 1392 :—आधिकारिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कोव लिमि. की जीलगोग कोनियरी के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्म कार्यों के बीच, अनुबंध में निर्दिष्ट आधिकारिक विवाद में केन्द्रीय सरकार आधिकारिक अधिकारण (म. 2), धनशाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

New Delhi, the 27th May, 1994

S.O. 1392.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Jealgora Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 24-5-94.

[No. L-20012/254/90-IR(Coal-I)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 14 OF 1991

PARTIES :

Employers in relation to the management of Jealgora Colliery of Messrs. Bharat Coking Coal Ltd and their workmen.

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee,
Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 17th May, 1994

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/254/90-IR(Coal-I) dated, the 11th December, 1990.

SCHEDULE

"Whether the action of the management of Jealgora Colliery of M/s. B.C.C.L., P.O. Jealgora, Dist. Dhanbad in dismissing Shri Durga Pandit alias Sohan Pandit from service is justified? If not, to what relief the workman is entitled?"

2. The action of the management of Jealgora Colliery of M/s. B.C.C.L. has been challenged in dismissing Shri Durga Pandit alias Sohan Pandit from service

3. The workmen filed a W.S. claiming that he was a permanent employee of Jealgora colliery of M/s. B.C.C.L., but he was illegally stopped by the employer without any reason. It was stated that ultimately the matter was settled and the Hon'ble Patna High Court, Ranchi Bench disposed off the matter vide C.W.J.C. No. 995/76(R). In pursuance of the settlement and direction of the Hon'ble Court it was agreed to take back in employment all the persons involved in the dispute including the concerned workman. The concerned workman was reinstated after completion of all the pre-requisite conditions mentioned in the settlement.

4. At the time of initial employment the concerned workman had declared his name, his father's name and his permanent address etc. but the erstwhile management was in the habit of changing name of the person after sometime only to deprive the poor workman of their bonus and P.F. facilities. The management had also changed the name of the concerned workman from Durga Pandit to Sohan Pandit. It was stated that the nick name of the Durga Pandit is Sohan Pandit and that was why the concerned workman did not object seriously about the change of his name in the register. However, after a lapse of about 7 years, the management of ECCL issued frivolous charge-sheet on the ground of theft, fraud or dishonesty in connection with company's business and property for giving false information regarding name, age etc. at the time of initial appointment.

5. The concerned workman replied to the charge-sheet which was not accepted by the management. It was contended that the action of the management in dismissing the concerned workman was quite illegal and unjustified. It has been prayed that the workman be reinstated with full back wages.

6. The management filed W.S. denying all the claims of the workmen. It was stated that the concerned workman named Shri Sohan Pandit posed himself as Durga Pandit, entered into the service of the management on 17-10-81. It was stated that the real Durga Pandit was working at Jealgora Colliery previously belonging to East India Coal Co. Ltd. and the said concerned workman was involved in the case pending before the Hon'ble High Court, Patna, Ranchi Bench in C.W.J.C. No. 995/76(R). While pending the case before the Hon'ble Court a settlement was arrived at between the management and the sponsoring union in the year 1981 and as per direction of the Hon'ble Court and terms of settlement

the workman named Durga Pandit was to be taken in employment as Miner/Loader.

7. However, the concerned workman took advantage of the situation and with the help and assistance of his friends posed himself as Durga Pandit and entered into the services of the management in place of Durga Pandit and thus he secured employment by practising fraud and dishonesty.

8. The management has not having any particulars with regard to the concerned workman in that case and in absence of particulars the workmen involved in that case were asked to submit affidavits in proof of their genuineness and also to furnish personal security bonds in support of their claim that they were the genuine workmen of Jealgora Colliery of M/s. East India Coal Co. and were concerned in the aforesaid C.W.J.C.

9. The concerned workman accordingly sworn affidavit declaring him as Durga son of Paras Nath Pandit of village Fularakaramtand, P.S. Belar, Dist. Bhagalpur and he declared himself as genuine workman concerned in C.W.J.C. aforesaid. He also submitted a surety bond dt. 25-7-81.

10. Subsequently the concerned workman submitted an application dt. 9-10-87 stating that his real name was Sohan Pandit and he prayed that his name be accordingly corrected in the register. The concerned workman filed this application when he was directed to fill up the particulars regarding his relative and others on the basis of service excerpts. The management examined the records and found that the concerned workman Sohan Pandit entered into the services of the management in place of Durga Pandit fraudulently and dishonestly and therefore he was issued a chargesheet dt. 15-12-87 (Ext. M-1). The concerned workman replied to the chargesheet which was not found satisfactory and ultimately the matter was enquired into. The concerned workman was found guilty in the domestic enquiry and consequently he was dismissed. At this stage it may be noted that the fairness of the domestic enquiry has already been conceded to by the learned counsel of the workmen.

11. The question for consideration would be as to whether there were sufficient materials before the Enquiry Officer to hold the concerned workman guilty of the misconduct.

12. The concerned workman was issued chargesheet alleging that he secured employment at Jealgora Colliery in the year 1981 by giving false information that he was Durga Pandit although his real name was Sohan Pandit. It was stated that his previous declaration in the process of taking employment was contrary to the present voluntary declaration recorded in the service excerpts and also in the application dt. 9-10-87.

13. Thus from the chargesheet it appears that the management had two materials before it to hold the concerned workman guilty of the misconduct. Firstly the concerned workman filed an application on 9-10-87 before the Agent, Jealgora Colliery for changing of his name as Sohan Pandit in place of Durga Pandit. Secondly in the service excerpts he

got his name entered as Durga Pandit but now he wanted to have a change as Sohan Pandit, in the service excepts itself. There is an endorsement of the concerned workman whereby he requested the authority for change of his name as Sohan Pandit.

14. It is an admitted position that the concerned workman and others got employment on the basis of the settlement arrived at between the management of BCCL and the representing union. The said settlement was filed before the Hon'ble High Court in C.W.J.C. No 995/76 and the Hon'ble Court was pleased to dispose of the matter on the basis of settlement. It was also stated that the management had no particulars with regards to the workmen concerned of that case as the above case related to stoppage of a large number of workmen of Jealgora Colliery under the management of East India Coal Co. in the year 1965. In absence of any particular the workmen involved in that case were asked to submit affidavit and furnish personal surety bond that they were genuine workmen of Jealgora Colliery of East India Coal Co. In pursuance of that order the concerned workman sworn affidavit that he was Durga Pandit. Even in the personal surety bond he declared himself as Durga Pandit. Now the management took a stand that the concerned workman previously at the time of security employment declared his name as Durga Pandit but now after 7 years of employment wanted to change his name as Sohan Pandit. The management got suspicious and issued chargesheet. While replying to the chargesheet the concerned workman stated that he was known both as Durga and Sohan Pandit and that he never played any fraud or dishonesty upon the management.

15. The management got the matter enquired into through domestic enquiry. In the domestic enquiry the management examined the Representing officer who simply stated the case of the management. Three other witnesses were also examined on behalf of the management simply to prove the application dt. 9-10-87 which was filed by the concerned workman for change of his name. This position has not been denied by the concerned workman. The concerned workman admitted to have filed the petition dt. 9-10-87 for change of his name. While giving reply to the chargesheet the concerned workman had stated that at the time of initial employment under the management of East India Coal Co. he had declared his name as Sohan Pandit. He also worked as Sohan Pandit but later on the management changed his name as Durga Pandit which he had to accept for the sake of his livelihood.

16. The learned counsel for the management at this stage urged that assumption of different name was itself a misconduct. Certainly that will amount to misconduct if it is proved that by assuming different names the management was cheated or any fraud or dishonesty was played upon. That can be proved only by showing that Durga Pandit was somebody else involved in C.W.J.C. aforesaid and the concerned workman was an imposter. Admittedly, no other Durga Pandit has come asserting his claim for employment. No witness has been examined to show that real Durga Pandit was somebody else other than the concerned workman. It was for the management and the management alone to establish this fact and in absence of any such proof it cannot be said that any

fraud was played upon by the concerned workman to secure employment.

17. The concerned workman was required to furnish personal surety bond with two sureties of the contents that he was the real workman involved in C.W.J.C. No. 995/76. The safety bond states as follows :—

"Whereas the above bounder Shri Durga has been appointed on the 4th day of October, 1980 to the post of on the basis of the settlement dt. 30-6-79 with the Union on the terms and conditions stated therein although his genuinity has not yet been ascertained."

18. This means the genuinity of the concerned workman was yet to be established. It was for the management to establish that genuinity but the management slept over the matter and allowed the concerned workman to work for 7 years or more. If a person or the authority upon whom fraud is committed, was in a position to prove it by exercise of due diligence and the same is not exercised it cannot be said that any fraud was practiced. The learned counsel for the workmen has placed his reliance upon the authority reported in AIR 1976 Supreme Court at page 376.

19. The workmen examined Shri Hardeo Rout and Nizamuddin Ansari who stood Surety for the concerned workman in the Surety Bond dt. 25-7-81. Shri Hardeo Rout knew the concerned workman Durga Pandit since 1963. Nizamuddin Ansari knew the concerned workman as Durga Pandit since 1965. In the year 1965 he claimed to have worked together in Bararee Colliery. He knew the concerned workman as Durga Pandit and therefore he had signed the surety bond. From the evidence of these two witnesses it is shown that the concerned workman was known as Durga Pandit but the man was one and the same. The same man was Durga Pandit and Sohan Pandit both. It has not been proved that Durga Pandit of C.W.J.C. aforesaid was a different man and not the concerned workman. For these reasons I am to conclude that the Enquiry Officer had no materials to hold the concerned workman as imposter. When he was not an imposter there was no question of committing any fraud or dishonesty.

20. In the result, the order of dismissal is set aside and the management is directed to reinstate the concerned workman with 50 per cent back wages within two months time from the date of publication of the Award. The continuity of the service will be maintained.

This is my Award.

B. RAM, Presiding Officer

नई दिल्ली, 27 मई, 1994

का. आ. 1393 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. टाटा आयरल एंड स्टील कम्पनी लिमि. की

जामादोबा कोलियरी के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संख्या—एल-20012/63/89-आई आर (कोल-1)]

सी. गंगाधरन, डैस्क अधिकारी

New Delhi, the 27th May, 1994

S. O. 1393 :—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Jamadoba Colliery of M/s. TISCO and their workmen, which was received by the Central Government on 24-5-1994.

[No. L-20012/63/89-IR (Coal-I)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d)(2-A) of the Industrial Disputes Act, 1947.

Reference No. 142 of 1989

PARTIES :

Employers in relation to the management of Jamadoba Colliery of M/s. Tata Iron & Steel Co. Ltd.

AND

Their Workmen

PRESENT:

Shri P. K. Sinha, Presiding Officer.

APPEARANCES:

For the Employers : Shri B. Joshi, Advocate.

For the workmen : Shri J. P. Singh, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 17th May, 1994

AWARD

By Order No. L-20012/63/89-I.R. (Coal-I) dated, the 3rd November, 1989, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of M/s. Tata Iron & Steel Co. Ltd., P.O. Jamadoba, Dt. Dhanbad in dismissing Shri Mangal Singh, Cat. I Mazdoor from service w.e.f. 21-7-87 is justified? If not, to what relief the workman is entitled?"

2. The chargesheet against the workman (Ext. M-1) mentions the following two charges—

"You had secured employment in the Steel Company as a dependant son of Sri Meja Singh. On 13-5-86 you got Sri Teja Singh admitted in the Central Hospital, Jamadoba, and declared his name as Meja Singh, your father, in order to avail free medical treatment to Sri Teja Singh.

It has been reported to us that you are actually the son of Sri Teja Singh but secured your employment in the company fraudulently by declaring yourself as the dependant son of Sri Meja Singh. The above matter was investigated in which it was revealed that you were the son of Sri Teja Singh and you not only secured employment in the Steel Company fraudulently but also tried to get free medical treatment by giving the name Meja Singh to Sri Teja Singh."

3. Clearly one charge is that though he was the son of one Teja Singh he secured his employment in the company by fraudulently declaring himself as dependant son of Meja Singh. The second charge is that he had got aforesaid Teja Singh admitted in the hospital of the company declaring him to be Meja Singh who he claimed was his father.

4. Both sides in this regard have filed their respective written statements from which it will appear that Mangal Singh, the workman, joined the service as General Mazdoor in Category I on 6-11-1979 claiming himself to be the dependant son of Meja Singh. On 13-5-86 he got Teja Singh, who allegedly was his actual father, admitted in hospital as Meja Singh in order to get free medical aid for Teja Singh. In the written statement of the management it has been mentioned in para 5 that a dependant of an ex-employee could be employed in place of his father, hence as a dependant son of Meja Singh, who was an ex-employee of the company, Mangal Singh could be employed in the service. Therefore it was Meza Singh as his father who could secure free treatment at the company's hospital.

5. The concerned workman in his written statement has stated that on receipt of the chargesheet, he had submitted his explanation denying the charges. The other parts of his written statement have assailed the punishment meted out to him, to be disproportionate while dubbing the domestic enquiry to be improper.

6. It may be mentioned here that the propriety and fairness of the domestic enquiry was decided as preliminary issue by the learned predecessor who, by a detailed order dated 13.3.92 held that the enquiry was held fairly and properly.

7. In so far as induction into service of Mangal Singh is concerned, from the materials on the record it is now abundantly clear that Mangal Singh was actually son of Teja Singh though he had entered into the service of the company as the dependants son of Meza Singh. This is proved by none other than Meza Singh who was examined by the workman as his witness who said that Mangal Singh was son of Teja Singh, but asserting that he had adopted Mangal as his son since his childhood. He has also admitted that Mangal got service as his son. He also submitted that he had brought up Mangal since he was only two months old.

8. It will appear that management representative, Sri B. Ghosh, was assigned to take statement of Teja Singh, who was admitted in the hospital as Meza Singh, on receiving a report from one Dayal Singh, another employee to that effect, which B. Ghosh had reduced the statement of Teja Singh in writing, in question and answer form, in presence of Dr. A.K. Sinha who also has been examined as a witness and has supported recording of such statement by Sri B. Ghosh. This written statement on which L.T.L. of Teja Singh is affixed on every page is on the record of the domestic enquiry. It does not appear that the workman ever had challenged the veracity of recording of such statement by Sri B. Ghosh. Therefore, this

statement of Teja Singh admitted into hospital as Meza Singh could be looked into. In his statement he had admitted that he was father of Mangal Singh and Meza Singh was his brother but had adopted Mangal Singh.

9. In this regard management's witness Dr. Paliwal had told the Enquiry Officer that one Meza Singh was referred to his hospital from Jamadoba dispensary and was examined by him. Since kidney trouble was suspected the patient was admitted. He further said that further investigation revealed that the patient's name actually was Teja Singh. This witness was cross-examined by the workman himself and said that he came to know that Mangal Singh was son of Teja Singh on the basis of confession made by the aforesaid patient.

10. The learned Counsel for the workman, in course of argument has submitted that in so far as the charge of admitting Teja Singh into hospital declaring him to be Meja Singh was concerned, the workman actually had committed a mistake for which he could have been punished, but by no stretch of imagination punishment for such small misconduct could be dismissal from service. So far the othercharge of misconduct was concerned, the learned Counsel argued that there was sufficient evidence on the record that Mangal Singh was adopted by Meza Singh, hence he was rightly claimed to be the dependant son of Meza Singh. Therefore, no punishment could visit the workman on this score.

11. It is a fact that in the domestic enquiry an attempt was made to prove that Meza Singh had adopted Mangal Singh as his son since the time Mangal Singh was two months old and for this the workman had introduced the evidence of Meza Singh himself. Of course in its rejoinder to the written statement of the management an attempt has been made to explain production of witness Meza Singh stating therein that the workman was assured by the management that if Meza Singh and Teja Singh were produced in the domestic enquiry and if they supported the case of the management, the management would take a lenient view of the matter and retain the workman in service. But this appears to be a cock and bull story because there is nothing on the record to sustain this theory, nor a workman can be regarded as dumb as to agree adducing of evidence against his own interest. Therefore the fact remains that Meza Singh was a witness of the workman.

12. So far the argument of the learned Counsel is concerned the point is not what Meza or Teja could have carved out as defence of the workman in course of the domestic enquiry, but what defence the workman himself has taken in repay to the charges.

13. The reply of the workman to the charges submitted to the management is Ext. M-4 in which he has denied the charge of misconduct. In relation to get Teja Singh admitted into hospital he mentioned in the explanation that he had acted on humanitarian circumstance and was ready to pay the expenses of his (Teja Singh's) treatment.

14. Therefore, here there is no specific denial that he had not got Teja Singh admitted as Meza Singh, but there is a specific offer to pay expenses of the treatment. In the rejoinder of the workman to the written statement of the management, it has been mentioned in para 6 that the workman had offered to reimburse medical charges under pressure of the management. But this allegation is contradicted by the workman himself in his written statement whereas he had stated in para 7 that there was no intention on his part to commit theft, fraud etc., but that was bonafide act in admitting an ailing patient which was also a humanitarian work. It was

further stated that the workman was agreeable to pay the charges of medical treatment, but the management had ignored that offer. Obviously the management could not have pressurised the workman in filing this written statement incorporating therein the aforesaid para 7. Therefore, by making such claim the workman not only has admitted, by unavoidable inference that he had got Teja Singh admitted into the hospital as Meza Singh, but also the fact that, since he agreed to pay the expenses, that it was Meza Singh who was his father.

15. The workman while giving his evidence before the Enquiry Officer had clearly stated that he had not admitted Teja Singh in the hospital. He also asserted that he was son of Meza Singh and not of Teja Singh. During his cross-examination he said Teja Singh was his uncle.

16. Therefore, a case which his well-wishers such as Teja Singh and Meza Singh might have attempted to make out in their statements hardly has any relevance for the purpose of this reference involving the workman because here the Enquiry Officer had to, and this Tribunal has to, consider the specific defence made out by the workman himself.

17. The theory of adoption by Meza Singh has been given ago by the workman Mangal Singh himself when, during cross-examination, he said that he did not know as to whether Meza Singh had adopted him as his son. It is quite unnatural for a grown up man not to know as to who was his father and by whom he was adopted particularly when both those persons happened to be brothers. This witness even repudiated, during cross-examination, the claim of Teja Singh who had asserted in his statement that Mangal was his son.

18. In his statement given in the hospital, Teja Singh also stated that Meza Singh had three sons of his own. A question would arise as to why then Meza Singh would adopt a son. During cross-examination, Meza Singh said that at that time he had three daughters and no son, hence he had adopted Mangal Singh as his son. But if three sons were born later to Meza Singh, then at that time he was in productive age, hence there was hardly any justification for him to adopt a boy as his son.

19. Moreover simply bringing up a son of a relative will not mean an adoption unless certain legal formalities were performed. There is nothing on the record to show that Mangal Singh was legally adopted by Meza Singh.

20. Nevertheless, Mangal Singh himself has repudiated the theory of adoption in his statement claiming himself to be the son of Meza Singh. Meza Singh also admitted that he had no document regarding the adoption. He also admitted that he had given service to Mangal Singh as his son.

21. Therefore, what appears from the evidence is that Mangal Singh was actually son of Teja Singh but he was inducted into service as the dependant son of Meza Singh who actually was not his father. The theory of adoption does not appear to be having any credence. However this is not a theory adopted by the workman himself.

22. From the materials discussed above it is also clear that Teja Singh was admitted into hospital of the company in the name of Meza Singh said to be the father of Mangal Singh so that he could get free medical treatment. The workman having admitted that he had done so on humanitarian ground and was ready to pay the expenses of the treatment, cannot now wriggle out of the position which spell his complicity in admitting Teja Singh in the hospital on wrong designation of facts.

23. Therefore, I find that the management has been able to prove both the charges against the workman Mangal Singh in the domestic enquiry.

24. Naturally, act of misconduct in admitting Teja Singh in the hospital in the name of Meza Singh was hardly sufficient to invite the punishment of dismissal from service. But since it has been proved that though Mangal Singh was son of Teja Singh, but got himself inducted into the service as the dependant son of Meza Singh justifies the punishment. This is so because when the very basis of his induction into service was wrong and fraudulent, the workman can hardly be allowed to claim continuance of that benefit even after the fraud was unearthed.

25. In his written statement the workman has also taken a plea that the offence with which he was charged did not amount to "theft, fraud or dishonesty in connection with company's business or property" as described under Clause 19(2) of the Standing Orders applicable to the colliery concerned.

26. Both the actions of the workman had an element of fraud and dishonesty. Induction into service or getting a dependant treated free in the hospital definitely relates to the business of the company. Therefore, misconduct as defined under Clause 19(2) of the Standing Orders stand established.

27. For the aforesaid reason, I do not think that this Tribunal has sufficient ground to interfere either with the finding of the Enquiry Officer or with the punishment imposed by the management.

28. In view of the aforesaid the following is the award—The action of the management of M/s. Tata Iron & Steel Company Ltd. in dismissing Mangal Singh, Category-I Mazdoor from service with effect from 21-7-87 is justified. The workman is not entitled to any relief.

In the circumstances of the case there will be no order as to the cost.

P. K. SINHA, Presiding Officer

नई विल्सो, 26 मई, 1994

का.आ. 1394.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. भारत कोकिंग कोल लिमि. की नियंत्रितपूर कोलियरी के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संख्या एल-20012/236/91-आई आर (कोल-I)]

मी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 26th May, 1994

S.O. 1394.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the Industrial Dispute Between the employees in relation to the management of Nichitpur Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 24-5-94.

[No. I 20012/236/91-IR (Coal-I)
C. GANGADHARAN, Desk Officer]

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d)(2-A) of the Industrial Disputes Act, 1947

Reference No. 74 of 1992

Parties : Employers in relation to the management of Nichitpur Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen

Present : Shri P.K. Sinha, Presiding Officer.

Appearances:

For the Employers : Shri H. Nath Advocate.

For the Workmen : None.

State : Bihar. Industry : Coal

Dated, the 17th May, 1994

AWARD

By Order No. L-20012(236)/91-I.R. (Coal-I) dated 13-8-1992 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Nichitpur Colliery (Sijua Area No. V) of M/s. Bharat Coking Coal Ltd. in superannuating Shri Gouth Mahto, Trammer, w.e.f. 20-8-89 instead of 13-1-99 is justified? If not, to what relief the workman is entitled?"

2. The reference was received in the office of this Tribunal on 25-8-1992. The management appeared and filed its written statement, but no one appeared on behalf of the sponsoring Union. Thereafter twice registered notices were sent to the Sponsoring Union, the last one on 16-2-1994, but none appeared on behalf of the Union.

3. It appeared that the sponsoring Union which had not even filed written statement, was not inclined to contest the reference. In the circumstances I am constrained to render a 'no dispute award' in the present case.

Therefore I render a 'no dispute award' in the present case

P.K. SINHA, Presiding Officer

नई दिल्ली, 26 मई, 1994

का.आ. 1393: — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मि. टाटा आयरन एंड स्टील कम्पनी लिमि. की जामादोबा कोलियरी के प्रबन्धतात्र के संबद्ध नियोजकों और उनके कर्गाकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (स. 1), अनादि का पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[लक्ष्य एल-20012/236/91-आई आर (कौल-1)]
सी. गंगाधरन, ईम्स अधिकारी

S.O. 1395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. I) Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Jamadoba Colliery of M/s. T I S Co. and their workmen, which was received by the Central Government on 24-5-94.

[No.L-20012/136/91-I.R (Coal-1)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 119 of 1991

Parties: Employers in relation to the management of Jamadoba Colliery of M/s. TISCO.

AND

Their Workmen.

Present : Shri P.K. Sinha, Presiding Officer.

Appearances:

For the Employers : Shri B. Joshi, Advocate.

For the Workman : Shri L.N.S. Chaudhary,
Concerned workman.

State : Bihar Industry : Coal

Dated the 19th May, 1994

AWARD

The present reference arises out of Order No. L-20012(136)/91-I.R. (Coal-I) dated 'nil', passed by the Central Government in respect of an Industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :

"Whether the action of the management in dismissing Shri L.N.S. Choudhary, Ex-Fitter Mazdoor, T.N. No. 11335 of Central Garage, Jamadoba under M/s. TISCO Ltd., P.O. Jamadoba, Dist. Dhanbad vide their letter No. JMB/473/009826 dated -11-85 is justified? If not, to what relief the workman is entitled?"

2. The dispute has been settled out of Tribunal. A memorandum of settlement has been filed in the Tribunal. I have gone through the terms of settlement and I find those to be fair and reasonable. I accept it and pass an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Disputes Act.

P.K. SINHA, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

REFERENCE NO. 119/91

Employers in relation to the management of
M/s. Tata Iron & Steel Company Limited.

And

Their workmen

JOINT COMPROMISE PETITION

It is hereby submitted :—

(1) That the Central Government vide its notification No. 20012 (136)91-IR-(Coal-I) dated 11 has referred the following dispute for adjudication :—

SCHEDULE

"Whether the action of the management in dismissing Sri L.N. Singh Choudhary, Ex. Fitter Mazdoor, Ex. T. No. 11335 of Central Garage, Jamadoba, Distt. Dhanbad vide their letter No. JMB/473/009826 dated 6-11-85 is justified? If not, to what relief the workman is entitled?"

(2) That the said dispute has been numbered/registered in the Hon'ble Tribunal as Ref. 119/91.

(3) That while the dispute was pending before the Hon'ble Tribunal, the recognised union of the management namely Rashtriya Colliery Mazdoor Sangh of which the concerned workman is a member took up the matter directly with the management for consideration of the case of the concerned workman.

(4) That the concerned workman himself approached the management & requested for his re-employment in the Company.

(5) That after detailed discussion, it was mutually agreed to settle the dispute on the following terms & conditions :—

(i) That Sri L.N. Singh Choudhary will be taken back in employment as a fresh entrant on the post held by him at the time of his dismissal i.e. Fitter Helper and will be posted in the Central Garage, Jamadoba subject to his medical fitness by the Co.'s Medical Board;

(ii) That on re-employment, in terms of this settlement, Sri L.N. Singh Choudhary will be entitled to receive the initial basic of Fitter Helper Cat II & other allowances applicable to the category.

(iii) That on re-employment, Sri L.N. Singh Choudhary will be treated as a fresh recruit would not claim any benefits for the period prior to his re-employment after this petition is accepted by Hon'ble Tribunal.

(iv) That the terms and conditions of the compromise petition are fair & proper.

It is, therefore, humbly submitted before the Hon'ble Tribunal to kindly pass an Award in the said dispute in terms of this compromise petition.

For the Management

For the Workmen

(1) (S.N. Sinha)
Divisional Manager (P&W)
M/s. Tata Iron & Steel Co.
Ltd. Jamadoba,
P.O. Jamadoba,
Dist. Dhanbad.

(S.K. Mahato)
Secretary
Rashtriya Colly, Mazdoor
Sangh Jamadoba Branch,
P.O. Jamadoba
District—Dhanbad

(2) (S.N. Biswal)
Asst. Divl. Mgr. (Personnel)
M/s. Tata Iron & Steel Co. Ltd.
Jamadoba, P.O. Jamadoba,
Dist. Dhanbad

(L.N. Singh Choudhary)
Concerned workman

WITNESSES

(1) Shashi Kumar,
Jr. Officer (Admns.)
(2) H.N. Singh

Part of the Award.

नंद दिल्ली, २६ मई, १९९४

का.आ. 1396 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मै. टाटा आयरन एण्ड स्टील कम्पनी लिमि. के जामादोबा पावर हाउस के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (स. I), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संख्या पत्र—20012/148/91-आई आर (कोल-1)]
सी. गंगाधरन, इस्क अधिकारी

New Delhi, 26th May, 1994

S.O. 1396.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No.-I), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Jamadoba Power House of M/s. TISCO and their workmen, which was received by the Central Government on 24-5-94.

[No. L-20012/148/91-IR (Coal-I)]
C. GANGADHARAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD
In the matter of a reference under section 10(1)(d) of the Industrial Dispute Act, 1947

Reference No. 132 of 1991

Parties : Employers in relation to the management of Jamadoba Power House of M/s. Tata Iron & Steel Co. Ltd.

AND

Their Workmen.

Present : Shri P.K. Sinha, Presiding Officer

Appearances :

For the Employers : Shri B. Joshi, Advocate

For the Workmen : None.

State : Bihar. Industry : Coal.

Dated, the 16th May, 1994

AWARD

By Order No. L-20012(148)/91-I.R. (Coal-I) dated 19-11-91 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication of this Tribunal :

"Whether the action of the management of Jamadoba Power House of M/s. Tata Iron & Steel Co. in awarding the punishment of suspension for 10 days w.e.f. 7-12-87 to Shri Gopal Chatterjee, Sub-station Attendant, T. No. 37171 is justified? If not, to what relief is the workmen entitled?"

2. The reference was received in this Tribunal on 5-12-1991. The sponsoring Union has remained un-represented since 20-1-1993. Last time it appeared on 2-12-1992, after a show-cause notice was issued. Again on 2-2-1994 another notice through registered post was issued and it appears that the same was received in the office of the sponsoring Union as the A.D. Card returned back. Still the sponsoring Union did not appear on 1-5-1994, the date fixed.

3. It appears that the sponsoring Union is not interested to proceed with this reference. Under the circumstances I am constrained to render a 'no dispute award'.

Therefore a 'no dispute award' is rendered in the present case.

P.K. SINHA,
Presiding Officer

नई दिल्ली, 26 मई, 1994

का.आ. 1397 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की आरा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स सैन्ट्रल कॉलफील्ड्स लिमि. की स्वांग वाहारी के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-91 को प्राप्त हुआ था।

[संख्या एस-20012/24/90-आई आर (कोल-1)]
सी. गंगाधरन, डैस्क अधिकारी

New Delhi, the 16th May, 1994

S.O. 1397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Swang Washery of C.C.L. and their workmen, which was received by the Central Government on 24-5-94.

[No. L-20012/24/90-I.R. (Coal-I)]
C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 192 of 1990

Parties : Employers in relation to the management of Swang Washery of Central Coalfields Ltd.

AND

Their Workmen.

Present : Shri P.K. Sinha.
Presiding Officer.

Appearances :

For the Employers Shri R.S. Murthy.
Advocate.

For the Workmen Shri J.P. Singh,
Advocate.

State : Bihar. Industry : Coal.

Dated, the 16th May, 1994

AWARD

By Order No. L-20012(24)/90-I.R. (Coal-I), dated, the 27th August, 1990, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Swang Washery of Central Coalfields Ltd. P.O. Swang, Dist. Giridih by withholding one increment with cumulative effect postponing one future increment of Sri R.C. Mahto workman under dispute is legal and justified? If not, to what relief the workman concerned is entitled?"

2. The chargesheet issued to the workman dated 9-9-1983 (Ext. M-2/1) contains the following charges to which explanation from the workman was invited—

"In course of your duty during second shift on 14-8-83 it has been reported that:

- (a) Challan bearing No. 120302 against truck No. 2967 of Pipradih Colliery was entered by you without token truck entry signature by the Security Guard at check-post.
- (b) The above challan was presented for signature subsequently by the Driver, Sri Dashrath Singh of truck No. 2967 at check-post to Sri Ram Bilash Yadav, Security guard in 3rd shift and on being refused the guard was threatened and abused by the above driver.
- (c) The challan was then presented for signature by the above driver and by you to Sri Toppo the third shift security guard at weigh bridge and on refusal both yourself and the driver had threatened Sri Toppo and abused him.
- (d) The truck belongs to Pipradih Colliery and without weighment was recorded by you as received in challan.

If the above is proved then your action amounts to deliberate falsification of records and mal-intention of record of weighment when there was actually no receipt of coal."

The sponsoring Union had filed written statement on behalf of the concerned workman, Sri R.C. Mahto stating that the workman had explained, in reply to the charge-sheet, the charges wherein he had taken the plea of bona-fide ground and had stated that since the truck in question (bearing registration No. 2967) was departmental one and since it was not checked at the security post due to rush of in-coming truck a rigorous application of the rules of weighment was not followed. The written statement also pointed out that the workman had taken permission of superior authority on telephone.

3. In this written statement it has been mentioned that the coal is brought by truck in (Swang) Washery Plant, and the same has to be weighed at the Weigh bridge after the truck has been checked by the security at the main gate. The written statement further mentions that since the truck in question was a departmental one (belonging to Pipradih Colliery), it was not weighed in the rush hour and was allowed to pass with necessary challan. It has been stressed here that if the coal was carried on a hired truck the person on duty at the weigh-bridge (such as the concerned workman) was obliged to weigh the coal on the truck in order to ascertain any shortage, but in case of a

departmental truck any inference of illegal gain in case of its non-weighment is not possible. It has been pointed out that in the challan the weight of the coal on the truck is mentioned by the colliery from where the coal has been despatched. In this written statement it has been stressed that if coal on truck was not weighed in absence of signature of security staff on the challan, that was a bonafide action on the part of the concerned workman who was then working as Munshi at the Weigh-bridge.

4. It has been pointed out that the Enquiry Committee was constituted two years after issuance of the charge-sheet and submission of show-cause, during which period the workman concerned was promoted to the post of Weigh-bridge clerk.

5. In the additional written statement the sponsoring Union has pointed out the findings of the Enquiry Officer which went in favour of the workman.

6. The management in its written statement has asserted the action of the management was justified. In para 10 it has been mentioned that the report of the Enquiry Officer was considered by the Project Officer and the then General Manager of Kathara Area. This again was considered by a Committee of two senior officers and then again the matter was considered by the General Manager who decided about the punishment to the workman. The plea of bona-fide taken by the workman and the sponsoring Union has been repudiated.

7. It will appear that by Order dated 19-5-92, while deciding the preliminary issue the learned predecessor had come to the finding that the domestic enquiry was held fairly and properly.

8. The point for consideration in this matter is as to whether or not the conclusion separately reached at by the Enquiry Officer and then by other authorities who had considered his report can be held to be fair and just and, if so, to what extent. Secondly, that if any of the charge is held to have been proved, then whether the punishment awarded was equitable.

9. Before entering into the fact it may be mentioned that in the chargesheet the charge (b) does not at all relate to the concerned workmen, hence while deciding the matter in relation to Sri R. C. Mahto this part of the charge need not be taken into consideration.

10. In so far as charge (c) is concerned that the proceedee and the driver of the truck, Dasrath Singh had produced the challan of that truck to Toppo, Security Guard of the third shift at the weigh-bridge and when Toppo refused to sign, the proceedee and the driver had threatened Sri Toppo and had abused him, I do not find this charge to have been substantiated in the light of evidence of MW-2 Arastus Toppo,

the Armed Guard himself. In his evidence he has said that when another Security Guard Ram Bilas refused to sign over the challan, the driver and Ram Chandra Mahto came to him and told him some "unjustified" things, such as, that they had seen many guards like Toppo having come there and gone. This witness said that thereafter they had no talks.

11. Even if it is accepted without reference to any further evidence that the proceededee had said the aforesaid to Sri Toppo, it may not come either in the category of threat or of abuse. There might have been some hot exchange of words, but on every occasion such heated discussion might not amount to either threat or abuse. Therefore, obviously, charge (c) has not been established.

12. In so far as charge No. (a) and (d) are concerned, the facts contained therein almost stand admitted by the proceededee to the effect that the challan being No. 120302 against truck No. 2967 of Pipradih Colliery was entered by the proceededee without token truck entry signature by the Security Guard at the check-post, and that without weighment, the proceededee had recorded the receipt of coal in the challan. I have earlier mentioned the written statement of the sponsoring Union in which also this position has tacitly been admitted. The plea taken by the sponsoring Union is that of lack of any mala fide since the truck belonged to Pipradih colliery and was received without weighment by the proceededee as the token truck entry signature of the Security Guard at the check-post was missing. The same is the position in the explanation of the proceededee submitted to the Project Officer in reply to the chargesheet, a copy of which has been marked Ext. M-2/2. In that explanation also the proceededee had admitted that in all the cases the trucks, challan was entered only when there was signature of the Security Guard on duty on its token. But further plea was taken that in a few cases even without such signature, the entry had to be made at the weigh bridge since sometimes the concerned Security Guard on duty fell into lapses. He also took the plea that no sooner he had received the truck without signature of the guard on the challan, he informed the superior officer by telephone. He also took the plea that sometime when the in-coming trucks are jammed, the departmental and other trucks are released by making 'average' entry of the weighment as done in the post.

13. Now coming to the evidence on the point, MW-1 is Ram Bilash Yadav, Security Guard who had duty that night from 10 P.M. to next morning 6 A.M. He deposed that driver Dasrath Singh wanted him to sign on the card informing him that the truck was already on the weigh-bridge, but he did not sign and gave the card to the Security Officer Sri Titus and submitted a written report also.

14. This witness, in the cross-examination had told the procedure of checking vehicles at the check-post. He said that the security guard saw at the check-post as to whether or not the (in going) truck was loaded with coal. Accordingly, an entry was made in the register noting the truck number, item and the name of the colliery from where the truck had come. Thereafter the security guard had to sign over the card and the truck went to the weigh-bridge. Therefore, it appears that at the weigh-bridge, which is also the admitted position, the coal loaded truck is weighed only after such checking by the security and after signature of the security guard on the card of the truck.

15. Before proceeding further on the evidence, in view of the admitted position with regard to charge (a) and (b), the main point that needs to be discussed in this context is the conclusion mentioned in the chargesheet in case the charges were proved. As already stated the chargesheet mentions that if the aforesaid charges were proved then the proceededee's action would amount to "deliberate falsification of records and mal-intention of record of weighment when there was actually no receipt of coal."

16. If truck No. 2967 that day had not carried any coal and if proceededee wanted to enter the receipt of coal from that truck mala side, even without signature of security guard on the challan or card, then this would be a serious offence and in case this resulted in wrongful gain to the proceededee or to the truck driver, this misconduct could justifiably call for punishment even of dismissal. But I do not think that any element of wrongful gain to the proceededee was involved even if he had shown receipt of coal that was not received from nationalised colliery. Admittedly, when the receipt is noted on challan, no payment is immediately made to the driver of the truck. This being the position, there is hardly an opportunity for munshi of the weigh-bridge earning money by such irregular act. Nevertheless, if a challan is passed showing receipt of coal without receiving the same, that will definitely cause loss to the Washery Project and that would still be a serious misconduct.

17. The management attempted to prove this point through evidence of MW-2 Sri Toppo who has said that he had seen the truck to be empty. This witness has said that in his register, which he visited on being approached by the proceededee to sign on the card, the entry of truck bearing No. BRY-2967 was shown at 8.10 O'clock, but the Card number was 105999, whereas he was being asked to sign on Card No. 120302. But this witness came to duty that day at 10 P.M. In that case whether Truck No. BRY-2967 passed the security post at 8.10 A.M. or 8.10 P.M., he was not there to see whether or not the truck was

loaded. No doubt, in cross-examination this witness has said that thereafter he had gone to the weigh-bridge to check the Card No., but he has not said if there also he had any occasion to see the aforesaid truck to find as to whether or not it was empty.

18. On the other hand, WW-1 Buxi Singh, Pay Loader Operator, has said that on that day he was on duty till 11 P.M. At about 10 P.M. he had cleaned the 'banker' and had put his loader there at which time Dashrath Singh came there and unloaded one truck coal. Then this witness protested as to why he had unloaded the truck since the banker was cleaned by the witness just then. Then this witness put the coal on the banker. This witness was fully cross-examined, but he stuck to his evidence.

19. WW-2 is Ganga Singh, another driver of Pipradih colliery who has said that when he came with his truck, he did not find the security guard at the check-post at about 9.30 P.M. hence he came with his truck to the weigh-bridge. He said that just behind his truck there were two more trucks of Pipradih carrying coal, one of which was being driven by Dashrath Singh. According to this witness Dashrath Singh also unloaded his coal. This witness also has not given away anything on this point in his cross-examination.

20. WW-3 was the proceedee himself, who has supported his case. This witness has said that, about the concerned truck, he found that the card was not signed by the security guard but the driver told him that the guard was not on the check-post. He asked the driver to get the card signed. After sometime the driver came and said that the guard was not signing. Then at about 10.05 P.M. he informed of the situation to Sri Hyder, the Incharge of Raw Coal Section who asked him to contact Sri D.N. Singh (Senior Executive Engineer, as per written statement of B. Hyder which is on the record), and then to receive the coal. This witness further said that Sri D.N. Singh when contacted directed him that since the truck was departmental, the proceedee could receive his coal even in absence of the signature of the Security Guard. Then he got the coal unloaded. In reply to a question in cross-examination, he admitted that on that date he was alone on duty at Weigh-bridge though two persons are posted on duty there.

21. The evidence of the management on the point that the truck was empty, the evidence is very weak when compared to the evidence of the workman on the point that the aforesaid truck was loaded and that the coal on the truck was unloaded at the washery. No doubt, MW-2 has spoken about entry of the truck in the register at the check-post with another Card No., but that could not be substantiated through production of the aforesaid register. It appears

that the Enquiry Officer had more than once directed the management representative to produce that register, but when on 21-4-86 the register was produced, the entries after 11-8-83 were found to be moth-eaten. Moreover MW-2 has not said as to whether the entry related to 8.10 A.M. or 8.10 P.M. MW-1, in reply to a question in cross-examination said that he had not seen as to whether or not the aforesaid truck was loaded or empty.

22. MW-3 Tap Narain Singh, who was on duty from 2 P.M. to 10 P.M. admitted that he had noted 'out' for Truck No. BRY-2967 at 2.12 O'Clock. He also has admitted that he had not seen the truck, in reply to a question by the management representative by way of clarification. He admitted that he used to maintain the register of 'in' and 'out' of the trucks.

23. MW-4 Babulal Bhagat, Security Guard, who was on duty from 2 P.M. to 10 P.M., has said that BRY-2967 was the last truck which had come at 8.10 O'Clock for which he had made entry. He also said that he was called from his residence at 11.45 P.M. on the plea that D.N. Singh was calling him, and he came to the Weigh Bridge on the vehicle which had gone to fetch him and there he was given a card by Dashrath Singh on which he refused to sign. He then phoned to D.N. Singh but nobody lifted the phone.

24. Therefore from the management evidence it will appear that there is confusion about timing of 'in' and 'out' of the concerned truck. However, that point is not that important because whenever that truck might have entered, the driver had failed to take the signature of the Security Guard and the coal was unloaded without any weighment by the concerned workman. It is this action of the management which is under consideration.

25. I already have said that the evidence on the record suggested that the truck in question was loaded with coal which was unloaded near the banker. From the evidence on the record it is also clear that it was irregular on the part of the proceedee, in view of procedure of receiving the coal from other colliery, to have accepted the coal on the truck without the signature of the guard and without weighment. This much of the procedure admittedly was violated by the concerned workman.

26. The workman had offered explanation as earlier pointed out. His first explanation was that due to rush sometimes the coal on departmental truck was unloaded without weighment accepting the weight mentioned in the Challan by the issuing colliery. This position has been admitted by MW-2 also in the first question asked in cross-examination. He was asked

as to whether in case of rush at the weigh-bridge, the trucks belonging to Pipradih and Swang were given by-pass. The witness answered in affirmative saying that sometimes "by-pass" was given.

27. Though MW-1 has denied that he ever had left his check-post, yet a situation cannot be denied as supported by the evidence of M.W. 2—Ganga Singh, that at a particular time that day the guard was not available at the check-post. MW-1 has said in answer to a question of Enquiry Officer that only one guard was kept on duty at the check-post. There may arise some situation such as answering the call of nature when security guard may not be available at the check-post. Even MW-2 has admitted that during his duty hours he had gone to the weigh-bridge. This shows that at one time he had left his check post. In such a case it may not be impossible for a departmental truck, as deposed by driver Ganga Singh, to cross the check-post and come to the weigh-bridge.

28. The second explanation of the workman was that he had taken permission of his superior officer before accepting the coal from the truck concerned.

29. The management had produced before the Enquiry Officer the statement of Sri B. Hyder whom the workman had referred to in his evidence. In this statement Sri Hyder had admitted having received telephone from the concerned workman at about 10 P.M. informing him that one weightment card of Pipradih truck had been taken by Sri Toppo and was not returned to Lal Babu Bhagat, Security Guard who was on duty. This statement further states that he had talk with Sri Bhagat on phone who told him that the truck had come but the card was not returned to him for further action. Then Sri Hyder instructed Sri R.C. Mahto to report the matter to Senior Executive Engineer for instruction.

30. This, however, proves that the concerned workmen had reported about the truck to his superior authority which he was not likely to do if he was entangled in more shady deal. But this statement does not say that Sri Hyder had told him to accept the coal after consulting D.N. Singh. The workman has claimed in his evidence that he had consulted D.N. Singh and had obtained his permission. The workman did not call D.N. Singh as his witness in support of his contention. There is nothing on the record to show that the workman had even requested the Enquiry Officer to call D.N. Singh as his witness.

31. Therefore, what I find to be proved from the evidence is that the concerned workman had acted in an irregular manner, and against the procedure to have granted receipt of coal without weighment, marking 'average' weight without the signature of the

Security Guard on the challan or the Card. To this extent the workman definitely appears to be guilty. But the evidence is on the record that sometime such 'by-pass' practice was resorted to. It has not been proved that this practice ever was approved by the superior authority. The workman has failed to prove his second defence that before accepting the coal, he had obtained permission from his superior authority.

32. The misconduct of the workman is limited to the above extent.

33. Now coming to the punishment for the extent of misconduct proved, the action of the concerned workman appears to be having mitigating factor. Mitigating factor was that such practice, atleast in the case of departmental trucks carrying coal, was not absolutely foreign in the aforesaid Washery Project. No doubt, a violation of the procedure cannot be absolutely condoned on the sole ground that such violation had taken place in the past also. If that is done, then there would be no meaning to the rules and procedures to be followed in running any industry because all rules and procedures may be violated time and again and, if and when questioned, a plea may be taken that this was happening all along.

34. But I have no doubt, that though the workman has violated the procedure to the aforesaid extent yet the evidence does not show that he had any malafide intention in doing that. For this reason, the punishment of stopping his one increment with cumulative effect appears to be a bit harsh. It is particularly so when one finds that the management before imposing this punishment had not taken the lapse of the concerned workman seriously, since in the meantime he was also elevated to the post of Weigh-Bridge Clerk from the post of Munshi. In my view, withholding of one increment of R.C. Mahto the then Munshi for a period of one year, without cumulative effect, would be a just and proper punishment to be awarded to the concerned workman for his aforesaid lapse which was indulged into without any malafide intention.

35. In the result the following award is rendered—

The action of the management of Swang Washery of Central Coalfield Ltd. in withholding one increment with cumulative effect of R.C. Mahto is not justified. In view of the extent of misconduct committed by the workman as discussed above his punishment is hereby reduced to withholding of one increment accrued to the workman for a fixed period of one year only without cumulative effect. This means that his one increment shall be stopped for one year only and from the succeeding year he would be entitled to all the increments which would otherwise have accrued to him in usual way. The workman shall also be entitled to receive the amount of arrear also, if any, on

implementation of this order which shall be implemented within a month of this award becoming enforceable.

In the circumstances there will be no order as to the cost.

P.K. SINHA, Presiding Officer

The workman represented by the Refinery Workers' Union, Noonmati, Guwahati-781020.

Appearances: Shri P.C. Deka, Advocate: For the Management. Shri L.P. Sharma, Advocate: For the Workman.

AWARD

नई दिल्ली, 30 मई, 1994

का.आ. 1398.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, गोहाटी रिफाइनरी आई.ओ.सी. (आर.एपी.पी.) डिविजन के प्रबन्धतात्व में संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुनंद में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोहाटी आसाम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-94 को प्राप्त हुआ था।

[संचया एल-30012/14/85-डी-III (बी)/2 प्रार (कोल-1)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 30th May, 1994

S.O. 1398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Guwahati, Assam as shown in the Annexure in the Industrial Dispute between the employees in relation to the management of Guwahati Refinery IOC (R&P) Division and their workmen, which was received by the Central Government on 24-5-94.

[No. L-30012/14/85-D-III(B)/2R(Coal-I)]
C. GANGADHARAN, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL: GUWAHATI: ASSAM

REFERENCE NO. 3(C) OF 1988

Present: Shri J.C. Kalita, Presiding Officer, Industrial Tribunal, Guwahati.

In the matter of an Industrial Dispute between:

The Management of Guwahati Refinery,
I.O.C. (R & P) Division, Noonmati,
Guwahati-781020.

and

The Govt. of India by notification No.L.30012/-14/85-D.III(B) dt. 10-2-87 Under Section 10(1)(d) and Sub-Section (2A) of the Industrial Dispute Act refers an industrial disputes between the management of Guwahati Refinery, Indian Oil Corporation, Noonmati, Guwahati and their workman Shri Chandmohammad Ali to the Central Govt. Industrial Tribunal, Calcutta and same was transferred to this Tribunal vide Govt. notification No.L.-30012/-14/85-D.III(B) dated 29-1-88 for adjudication with a copy to the respective parties.

On receipt of the reference a case was registered and notices were sent to the parties who on their appearances before this Tribunal filed their written statements together with few documents.

The reference relates to the following issues:—

"Whether the action of the management of Guwahati Refinery (IOC), Noonmati, Guwahati-20, in dismissing the services of Mohammad Chand Mohammad Ali, Messenger, Guwahati Refinery, w.e.f. 16-7-82 is justified? If not, to what relief the workman is entitled?"

The management examined only one witness and the workman examined as many as three witnesses who were discharged after cross-examination. Both sides pressed few documents into service.

The workman in his written statement contended that he was appointed as Messenger of Guwahati Refinery on 13/22-1-79 on the basis of the Interview held on 29/20-11-79 after proper verification of relevant documents. On receipt of the appointment letter No. P/Offer/79/243 dt. 13/22-1-79 he joined on duty on 23-1-79 by submitting joining report to the Material Manager. After completion of probationary period on 22-7-79 he served under the Management till 16-9-81 to the satisfaction of the superiors. Suddenly on 16-9-81 he was placed under suspension by Sri P.K. Borua and finally charge-sheeted him for misconduct as per clause 18(IV) and 18(XXI) of the standing orders applicable to the workmen. Though the workman denied the allegation in writing, management appointed Sri D. Khourd, officer on special duty as Enquiry

Officer to enquire the charges levelled against him who, by turning a deaf ear to the request of the workman to represent his case by the Chief Executive Committee Member of the union, proceeded with the Enquiry by denying him fair and reasonable opportunity and the Material Manager, finally dismissed him from service by accepting the enquiry report.

After dismissal the Management filed an application before this Tribunal Under Section 33(2)(b) of the Industrial Dispute Act for approval. The workman filed objection against the application in Case No. 23 of 1982, but subsequently defaulted from appearance as a result of which this Tribunal by its order dated 26-6-84 allowed the said petition Under Section 33(2)(b) of the Act. His further contention was that the educational qualification for the post of Messenger was below Matriculation and it was not known as to why he was asked to furnish his H.S.L.C. Examination passed certificate. By levelling a false charge he was victimised for his Trade Union activities without following the Mandatory Provision of Section 33(2)(b) of the Act by not paying the wages for one month at the time of dismissal. As such he is entitled to reinstatement with all back wages from the date of dismissal.

The Management in their written statement contended that this Tribunal has no jurisdiction to entertain the reference as the dispute referred to was not an Industrial Dispute as defined in the Act. The Management has admitted that the workman was appointed as Messenger of Guwahati Refinery. Any person who is either appointed or proposed to be appointed in any post has to fill up a prescribed form called attestation form furnishing the particulars to be supplied that the particulars supplied were solemn declaration. The attestation form carries a caution note which reads as follows:

(1) The furnishing of false information or suppression of any factual information in the Attestation Form would be a disqualification and, is likely to render the applicant unfit for employment under Corporation.

(2) If the fact that false information has been furnished or that there has been suppression of any factual information in the Attestation Form comes to the notice at any time during the service of a person his services would be liable to be terminated.

The workman Chand Mahanmod made the declaration in the attestation form that he read in Puthimari Higher Secondary School where from he passed the H.S.L.C. Examination in Second division in 1976 and certified the information to be correct and complete to the best of his knowledge and belief. He verified the said statement to the effect that if the

same are found to be untrue the Company shall have the right to terminate his service. On receipt of information as to the genuineness of his H.S.L.C. passed certificate the company asked him to produce the relevant documents and made correspondence with the SEBA, Guwahati and finally convinced that Shri Chand Mahamod had not passed the H.S.L.C. Examination. Thereafter the Management issued chargesheet against him on 19-9-87 with a direction to show cause. One Shri D. Khound was appointed as Enquiry Officer to hold the domestic enquiry. The Enquiry Officer after due process submitted his Enquiry report holding the workman guilty. By accepting the enquiry report the management dismissed the workman from the service. As some Industrial Disputes were pending before this Tribunal, the Management filed an application under section 33(2)(b) of the Act for approval of the dismissal order. The application was registered as Misc. Case No. 23 of 1982 in which the workman appeared before the Tribunal and filed his objection, and the case was finally disposed of on 26-6-84 by approving the dismissal order. As such the workman is not entitled to any relief claimed in the reference.

The learned counsels for both sides played a long innings by arguing their respective cases. To decide this very simple issue some collateral facts need discussions and decision. One material fact is the schooling of the workman. Mr. L.P. Sharma, the learned counsel for the workman submitted that the required qualification for the post of Messenger is of "Eight Standard". It is an admitted fact that this workman together with others were sponsored by the Employment Exchange. That he was selected and finally appointed as messenger is not denied. Exhibit "E" is the offer of appointment to the workman laying down the terms and conditions of service acceptable to both sides. In his evidence on oath this workman affirmed that he had joined in service by accepting the said terms and conditions.

The workman examined Sri Arun Tati and Sri Prafulla Ch. Kalita in support of his case. Sri Arun Tati got his employment from reserved quota. So his educational qualification has little bearing. Prafulla Kalita deposed that he read up to Class VIII. This proves that the candidates other than ST/S.C./O.B.C. who were sponsored by the Employment Exchange, must be of "Eight standard". In the light of this it can be safely said that Md. Chand Mahamod Ali was sponsored by the Employment Exchange with this criteria and not as a H.S.L.C. passed candidate. The oral evidence of Md. Chand Mahamod Ali that his name was recommended by the Employment Exchange as a Matriculate has little value in the absence of the recommendation made by the Employment Exchange to the Guwahati Refinery.

The witness for the management who has passed number of documents into evidence, did not state that Md. Chand Mahammod Ali was selected for the post because of his Matriculation qualification. The fact remains that he was selected and was finally appointed.

The workman claimed that he read in Puthimari Higher Secondary School. The Principal in-charge of Puthimari Higher Secondary School was examined as a witness in Misc Case No. 23/82 and his evidences is tendered herein this case. Exhibit 3 is the certificate issued to him by the Principal of Puthimari Higher Secondary School as claimed by Chand Mahammod Ali. He also admitted that the Exhibit 12 was produced by him before the Management. This is the Provisional Certificate issued by SEBA, Guwahati. Sri Hem Ch. Choudhury deposed that Ext. 3 is not the form used by the office of the Principal, Puthimari Higher Secondary School. He also denied the seal appeared in Ext. 3 and also the signature of the then Principal Sri Gajendra Kalita. The format used by the school is the Ext. 4. He further stated that no counter foil of Ext. 3 is available in the office of the school. Ext. 6 is the Admission Register of the school since 1967 to 1972. This admission Register reveals that one Sd. Chand Mahammod Ali son of Sd. Pachnur Ali of Village Chowrahara was a student of Class IV and Ext. 6(1). is the relevant entry of the Register. Ext. 7 is the statement showing the names of candidates who appeared in the Final H.S.L.C. Examination in 1976. This statement shows that one Sd. Chand Mahammod Ali son of Sd. Pachnur Ali appeared in the final HSLC Examination in 1976 under Roll Puthi No. 10. This witness boldly affirmed that no student named Md. Chand Mahammod Ali son of Abdul Gani Ali of village Kaniha appeared from the school in the year 1976.

Sri Boparam Bhajani, an employee of SEBA, Guwahati deposed from the official records that the name of one Sd. Chand Mahammod Ali son of Pashnur Ali of village Chowrakara appeared in the records (Ext. 13 & 14). I am now convinced from the evidences on records that Md. Chand Mahammod Ali son of Md. Abdul Gani Ali of village Kaniha was never a student of Puthimari Higher Secondary School and he never passed H.S.L.C. Examination in 1976 from the school. In view of this proved fact I could not accept the claim of the workman that he passed H.S.L.C. Examination from Puthimari Higher Secondary School in 1976.

Mr. Deka, the senior learned counsel for the management submitted that the provisional certificate (Ext. 12) produced by the workman is a forged one. In my opinion, it is not within the competence

of this Tribunal to decide forgery. Mr. Bhajani admitted that the signature of the Secretary in Ext. 12 is the signature of S. Bharali and the hand writing except 'M' in Md. are his. To prove forgery or fraud SEBA had to set the police into motion but they remained silent for the reasons best known to them.

How the workman was selected is not the question to be decided. It is to be decided whether his dismissal from service was justified on the grounds as alleged in the chargesheet. Before deciding this issue the question raised "whether this reference is barred by Resjudicata", needs discussions. It is a fact that Misc Case No. 23 of 1982 cropped up as a result of a petition filed under section 33(2)(b) of the Act by the management before this Tribunal for approval of dismissal order of Md. Chand Mahammod Ali. Decision of the said case is before me. On perusal what I find is that the workman appeared before this Tribunal in that case and filed his objection. The workman also cross-examined the witness tendered by the petitioner but subsequently withdrew from the contest expressing that as the matter was pending before the conciliation authority there is no necessity to make further contest. As a result my predecessor-in-office passed the order on 26-6-84 by awarding approval to the dismissal order.

According to the workman he retired from the contest in Misc Case No. 23 of 1984 because of conciliation proceeding pending before the Labour Commissioner and it has been seen that the Central Govt. ultimately referred the dispute to this Tribunal on 29-1-88, long after passing of order of approval on 26-6-84. In this connection the following decisions were cited before me.

- (i) LLJ S.C. Vol. I 1962 Page 261.
- (ii) LLJ A.P. Vol. II 1962 Page 207.
- (iii) A.L.R. 1973 Page 196.
- (iv) L.L.J. S.C. 1976 Vol. 2 Page 186.
- (v) L.I.C. 1983 Part I K.H. Page 24.

On perusal of the said decisions what I find is that the jurisdiction of this Tribunal is not ousted once the Govt. forms an opinion that there exists an Industrial Dispute to be adjudicated by a Tribunal. Industrial Law is governed by special Methodology of conciliation, adjudication and consideration of peaceful industrial relations where collective bargaining and pragmatic justice claim precedence over formalised rules of decision based on individual contest. In my opinion this reference is not barred by Resjudicata.

As to bar by resjudicata I relied on the decisions in NOC. GLR. 1988 Vol. II Page 12 wherein it was

held that a decision on an application Under Section 32(2) of the Act even if rendered on merit would not, ipso-facto be resjudicata in a reference Under Section 10 of the Act. The provisions under both the sections relate to two different aspects. Section 33 relates to conditions of service etc., but section 10 provides for a reference to a Board or Tribunal for adjudication. So it is held that the findings of Mise Case No. 23 of 1981 do not stand as a bar by Res-judicata.

The domestic enquiry held by the Management was challenged by the workman. Once it is decided that this Tribunal has jurisdiction, its first duty is to see whether the domestic enquiry is vitiated by violation of Principles of Natural Justice or whether there is any unfair Labour Practice or victimisation that the findings of the domestic enquiry was perverse. To scrutinise these facts this Tribunal has power to consider the evidences on record and give its finding on merit.

The only important point raised is the domestic enquiry. According to the workman the domestic enquiry was held by an officer having no jurisdiction and the dismissal order was passed by the Material Manager without his power and jurisdiction. It was further alleged that he was not given adequate opportunity to defend himself by a member of the union. The Management stoutly refused the allegation and submitted that he was legally dismissed from service by the order of a competent officer.

What I find from the charge-sheet is that the workman was dismissed from service for misconduct with specific reference to clause 18(v) and 18(xxi) of the standing order. The provision of the standing orders can not be questioned before the Tribunal. Its provisions also binding upon the workman. Clause 18 consists of Acts and omissions which constitute misconduct, and sub-clause (IV) deals with theft, fraud or dishonesty in connection with company's business or property. Sub-clause XXI deals with giving false information regarding particulars required to be given at the time of appointment or during service.

The allegation is that the workman submitted a false declaration that he had passed H.S.L.C. Examination in Second Division from Puthimari Higher Secondary School in the year 1976. Giving of false information or particulars does not amount to theft or does not come within the province of fraud or dishonesty in respect of Company's business or property. In my opinion provisions of Clause 18(iv) are not attracted to prove misconduct against the workman.

Whether the provisions of Sub-clause 18(xxi) are attracted are to be seen. Ext. 'E' is the offer of

appoint to the workmen wherein terms and conditions of service are laid down. By accepting the offer the workman accepted the terms and conditions of the offer. Ext 'F' is the joining report dt. 23-1-79. Ext. 17 is declaration Form and Ext. 17(2) is the signature of the workman who admitted that this Form had to be submitted before joining in service. This Ext. 17 is dated on 29-11-78 wherein the declared to have passed the H.S.L.C. Examination in Second Division in 1976. By this declaration the workman binds himself that if any of these statements or answers are found to be untrue or incomplete or if any information is found to have been withheld by him, he thereby accepted the company's right to terminate his service. He joined in service on 23-1-79, Ext. 16 is the attestation form duly filled up and signed by the workman on 5-2-79. Mr. L.P. Sharma, the learned counsel for the workman submitted that the declaration filed by the workman was prior to his appointment and thereby has committed no misconduct. I have already held that the workman has not passed H.S.L.C. Examination from Puthimari Higher Secondary School in the year 1976 though he claimed to have passed it as per declaration, Ext. 17. It is definitely an untrue statement declared to be true and comes to the category of false information as mentioned in sub clause XXI of clause 18 of the standing order. So I find that the submission of Mr. Sharma has no relevancy that the untrue statement made in the Declaration Form was prior and does not amount to his conduct.

The standing order is a statutory Rule applicable to all employees, and the conditions of service prescribed in the standing orders are made known to each employee by way of offer of appointment before joining. Giving of an untrue statement appears to be a penal provision incorporated in the standing order. It is immaterial whether it is prior or later of the appointment. Reliance is placed on 1984 S.C. page 269.

It has been submitted that the charge-sheet was by an authority lower than the appointing authority and is violative of the provision of Act. It is a fact that the workman has been working under the Material Manager and he was finally dismissed from service by the Material Manager. In support of his contention Mr. Deka the learned counsel for the Management relied on the following decisions:

1993(I) S.C.C. page 419, 1992(II) L.L.J. page 777, 1991 (I) LLJ page 536, A.I.R. 1957 S.C. page 38, A.I.R. 1981 S.C. page 1626, A.I.R. 1963 S.C. page 295.

On perusal of the said decisions I agree with Mr. Deka that the provision of Art 311 is not appli-

cable to the workman being an employee covered by the standing orders.

Under the standing orders—"Head of the Department means the person or persons notified by the Managing Director or the General Manager as the case may be as the Head of the Department for the purpose of dismissing or discharging or taking any other disciplinary action under the standing orders". Exhibit 21 is the notification issued to that effect. "Departmental officer" means an officer notified by the General Manager or by the Head of the Department as the case may be as the officer of the Department for taking disciplinary action other than dismissal and discharge against an employee of respective Department. It means that only the Departmental Head has the power to dismiss or discharge. Now the question is whether Jagdish Lal the Material Manager was a Departmental Head or Departmental Officer is to be seen.

It has been seen that Sri R.P. Dutta, Deputy Manager (P) appointed Sri D. Khound as Enquiry Officer, who finally held the workman guilty of misconduct and submitted his report accordingly. On receipt of the report material Manager dismissed him from the service. Under Clause (c) of the standing order any departmental officer can initiate departmental proceeding though he is not authorised to take action of dismissal or discharge. As such P.K. Borua being a departmental officer has right to issue charge sheet. It is made clear in 1991 (I) LLJ page 536 that there is no proposition in law that under no circumstances any person or authority subordinate to the Disciplinary Authority/Appointed Authority cannot issue charge sheet or initiate departmental proceeding.

It appears from the records that Sri Jagadish Lal was the Head of the Department. As per provision of clause (u) of the standing order he was power or jurisdiction to dismiss or discharge Sri Chand Mahammod from service. In the light of the decision in 1992(2) LLJ page 777 Mr. Deka submitted that the Labour Court or the Tribunal has power and jurisdiction to decide whether the workman is guilty of misconduct on the basis of the necessary pleadings. In the said decision it was held that no separate charge sheet is necessary and non-issue of charge sheet is immaterial.

I have carefully pursued the evidence of Md. Chand Mahammod Ali with specific reference to the documents exhibited before this Tribunal and also the evidence of other witnesses. I am convinced from the evidences on record that he was never a student of Puthimari Higher Secondary School and has never passed HSLC Examination therefrom in 1976. There is no documentary evidence to show that he read

upto class VIII of Puthimari Higher Secondary School to corroborate his oral testimony. He not only furnished false information as to his Schooling in Puthimari Higher Secondary School and passing of HSLC Examination therefrom in support of his candidature for the post of messenger and of his appointment thereto, he all along affirmed that he was selected for the post because of Matriculation qualification which could not be accepted as true. In view of such proved facts and circumstances the false information furnished by him to the authority in the declaration form as well as the attestation form is nothing but a misconduct, and his dismissal cannot be said to be in illegal labour practice of vindictive attitude.

To conclude I must say that the Management was justified in dismissing the workman Mahammod Chand Mahammod Ali from service on ground of misconduct, and the relief claimed could not be extended to him. The reference made stands rejected without an award.

I give this AWARD on this 9th day of May, 1994 at Guwahati.

J.C. KALITA, Presiding Officer,

आदेश

नई दिल्ली, 26 मई, 1994

का.आ. 1399 : —कर्मचारी भविष्य निधि एवं प्रकोण उपचार प्रतिनियम, 1952 (1952 का 19) की धारा 17 की उपधारा (1) के अध्य (क) द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने अम मंत्रालय की दिनांक 5-5-1988 की अधिसूचना संख्या एस-35012/6/88-एस एस-II के तहत मैसर्स जेनेलिक लिमिटेड, बन्धव, एस एस/609 को सूच प्रदान की थी।

2. केन्द्रीय भविष्य निधि आयुक्त, महाराष्ट्र ने सूचित किया है कि प्रतिष्ठान के स्थानी वाधिक लेखा परियों जारी करने में असफल रहे हैं और उन्होंने कर्मचारी भविष्य निधि योजना, 1952 के पैरा 60 के अंतर्गत निर्धारित सार्विक दर की तुलना में अधिक भी कम दर पर जमा किया है। सूचि प्रतिष्ठान कूट प्रदान किए जाने के लिए निर्धारित घर्तों को पूरा करने में असफल रहा है अतः केन्द्रीय सरकार, कर्मचारों भविष्य निधि एवं प्रकोण उपचार प्रतिनियम, 1952 की धारा 17 की उपधारा (4) के अध्य (क) द्वारा प्रवत्त शक्तियों का प्रयोग करते हुए, मैसर्स जेनेलिक लिमिटेड, बन्धव को प्रदान की गयी छूट को तत्काल प्रभाव से निरस्त करती है।

3. अम मंत्रालय की दिनांक 5 मई, 1988 की अधिसूचना संख्या का.आ. 1589 के साथ संलग्न अनुशूली के पैरा 20 में किए गए प्रावधान के अनुसार अंशबालाओं के लिए स्वाक्षर आज्ञा की दर में आई कमियों को नियोजित पूरा करेगा।

4. केन्द्रीय भविष्य निधि आयुक्त, महाराष्ट्र द्वारा कर्मचारियों की संवित अनावृति के स्थानान्तरण के लिए इस प्रतिनियम की धारा 17 (5) के अंतर्गत किए गए प्रावधान के अनुभाव यावत्यक कार्रवाई की जाएगी।

ORDER

New Delhi, the 26th May, 1994

S.O. 1399.—In exercise of the powers conferred by Clause (a) of Sub-Section (1) of Section 17 of the EPF & MP Act, 1952 (19 of 1952) the Central Government had granted exemption to M/s. Genelec Ltd., Bombay, MH[609 vide The Ministry of Labour Notification No. S-35012|6|88-SS. II dated 5-5-1988.

2. The RPFC, Maharashtra has reported that the trustees of the establishment have failed to issue annual account slips and have also credited lesser rate of interest as compared to the Statutory rate prescribed under para 60 of the EPF Scheme, 1952. As the establishment failed to meet the conditions prescribed for grant of exemption, the Central Government in exercise of the powers conferred by clause (a) of sub-section (4) of Section 17 of the EPF & MP Act, 1952 hereby cancels the exemption of M/s Genelec Ltd., Bombay with immediate effect.

3. As provided in para 20 of the Schedule annexed to the Ministry of Labour Notification S.O. 1589 dated the 5th May 1988 the employer shall make good the deficiencies in the rate of interest allowed to the subscribers.

4. Necessary action as provided under section 17 (5) of the Act for transfer of the amount of accumulations of the employees shall be taken by the Regional Provident Fund Commissioner, Maharashtra.

[No. S-35017|1|93-SS. II]
J. P. SHUKLA, Under Secy.

मई दिनी, 30 मई, 1994

का.प्रा. 1400 : —कर्मनार्थ गत्य बोधा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार एवंद्वारा 1-6-1994 को उस तारीख के रूप में नियम करती है, जिसको उस अधिनियम के प्रधाराय-4 धारा-44 और 45 के विवाय जो पहले ही प्रवृत्त की जा चुकी है (और प्रधाराय-5 और 6) धारा-76 की उपधारा (1) और धारा-77, 78, 79, और 81 के विवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्द्रे प्रदेश राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, प्रार्थना :—

“जिना मेडक के सुप्रसिद्ध मंडल में साप्तस ग्राम तुप्रान, ब्रह्मगंगली और बैकल्पुर की सीमाओं के अन्तर्गत भाग वाले क्षेत्र।”

[मंद्या एम-38013/8/94-पम ग्रभ-I]
जे.पी. मुख्या प्रश्न सचिव

New, Delhi, the 30th May, 1994

S.O. 1400.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st June, 1994 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of sections 76, and sections 77, 78, 79 and 81 which have already been brought into force)

of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely :—

“The areas falling within the limits of revenue villages of Toopran, Brahmanapally and Venkatapur in Toopran Mandal of Medak District.”

[No. S-38013/8/94-SS.I]
J. P. SHUKLA, Under Secy.

मई दिनी, 31 मई, 1994

का.प्रा. 1401 : —कर्मनार्थ गत्य बोधा अधिनियम, 1948 (1948 का 34) की धारा-1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय गरजार एवंद्वारा 1-6-1994 को उस तारीख के रूप में नियम करती है, जिसको उस अधिनियम के प्रधाराय-4 धारा-44 और 45 के विवाय जो पहले ही प्रवृत्त की जा चुकी है (और प्रधाराय-5 और 6) धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के विवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध विहार राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, प्रार्थना :—

क्रम अंक व प्राप्त का नाम नियम	राजस्व धारा राजस्व धारा का नाम की संख्या	जिला			
		1	2	3	4
1. परथर छट्टो	मध्यपुर नगर पालिका	271	—वही-	वही-	
2. परमा रोड़	—वही-	271	—वही-	वही-	
3. पनारी कोपा	—वही-	270	—वही-	वही-	
4. लालगढ़	—वही-	369	—वही-	वही-	
5. आनासी शहद्वा	—वही-	268	—वही-	वही-	
6. लखारा महल्ला	—वही-	268	—वही-	वही-	
7. मधुप्रारा टाँड़ बाबन बीघा	—वही-	265	—वही-	वही-	
8. मधुप्रारा टाँड़	—वही-	265	—वही-	वही-	
9. थाना रोड़	—वही-	269	—वही-	वही-	
10. यामगाला भूगा	—वही-	274	—वही-	वही-	
11. कन्वार्ड दस्ता रोड़	—वही-	274	—वही-	वही-	
12. चन्द्रवारी	—वही-	274	—वही-	वही-	
13. गमजस रोड़	—वही-	269	—वही-	वही-	
14. कुराड़ बंगला	—वही-	272	—वही-	वही-	
15. गणिया	—वही-	212	—वही-	वही-	
16. धमवा	—वही-	219	—वही-	वही-	
17. हरला टाँड़	—वही-	264	—वही-	वही-	
18. दीवारिया चक	—वही-	262	—वही-	वही-	
19. सखारा	—वही-	267	—वही-	वही-	
20. मधुगा	—वही-	218	—वही-	वही-	
21. पसीया	—वही-	366	—वही-	वही-	
22. बारायाग	—वही-	271	—वही-	वही-	
23. सीवादिया	—वही-	233	—वही-	वही-	
24. दुलभार	—वही-	131	—वही-	वही-	

तथा मधुपुर नगर पालिका द्वेष्ट्रा के अन्तर्गत भाग वाले ग्राम धारा धारा धारा ।

[संख्या एम-38013/7/94-पम ग्रभ-I]
जे.पी. मुख्या प्रश्न सचिव

New Delhi, the 31st May, 1994

S.O. 1401.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st June, 1994 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Bihar, namely:—

S ^t . Name of the Revenue villages No.		Name of Revenue Thana	No. of Revenue Thana	District
1	2	3	4	5
1. Pather Chatti		Madhupur Municipality	271	Deoghar
2. Dharma Road	-do-		271	Deoghar
3. Panahi Cola	-do-		270	Deoghar
4. Lal Garh	-do-		369	Deoghar
5. Kbalashi Mohalla	-do-		268	Deoghar
6. Lakhna Mohalla	-do-		268	Deoghar
7. Machaura Tand Bawan Bigha	-do-		265	Deoghar
8. Machua Tand	-do-		265	Deoghar
9. Thana Road	-do-		269	Deoghar
10. Amtala Bharwa	-do-		274	Deoghar
11. Balai Dasta Road	-do-		274	Deoghar
12. Chandwari	-do-		274	Deoghar
13. Ramjas Road	-do-		269	Deoghar
14. Kurdu Bungla	-do-		272	Deoghar
15. Gadia	-do-		212	Deoghar
16. Dhamwa	-do-		219	Deoghar
17. Harla Tand	-do-		264	Deoghar
18. Diwaria Chak	-do-		262	Deoghar
19. Lakhna	-do-		267	Deoghar
20. Mathura	-do-		218	Deoghar
21. Pasia	-do-		366	Deoghar
22. Bara Bag	-do-		271	Deoghar
23. Sivadia	-do-		233	Deoghar
24. Dulabhpur	-do-		131	Deoghar

and all revenue villages, Thanas within the Municipal area of Madhupur, District Deoghar.

[F. No. S-38013/7/94-SS. I]

J.P. SHUKLA, Under Secy.

नई दिल्ली, 27 मई, 1994

का. आ. 1402—केन्द्रीय सरकार ने यह भास्तान हो जाने पर कि लोकहित में ऐसा करता थमेवित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (3) के उपखण्ड (4) के उत्तरधारों के अनुभव में भाग्य सरकार के शम मंत्रालय की अधिमूलना संस्था का आ. 2699 तारीख 30 नवम्बर, 1993 से उ. मास की कानावधि के लिए लोक उपयोगी गैरि नोटिस दिया था;

ओर केन्द्रीय सरकार की राय है कि लोकहित में उक्त कानावधि को उ. मास की और कानावधि को वृश्चया जाना अपेक्षित है;

प्रत: अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (3) के उपखण्ड (4) के परन्तुक वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उपयोग को उक्त अधिनियम के प्रयोगकों के लिए 31 मई, 1994 से छः माह का और कानावधि के लिए योक उपयोगी मेवा घोषित करती है।

[संख्या प्रम-110/7/10/81-डी-१(प)]

प्रम. पा. परामर, सरकारी मंत्रित

New Delhi, the 27th May, 1994

S.O. 1402.—Whereas the Central Government having been satisfied that the public interest so re-

quired had, in pursuance of the provisions of sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour No. S.O. 2699 dated the 25th November, 1993 the Security Paper Mill, Hoshangabad, to be a public utility service for the purposes of the said Act, for a period of six months from the 30th November, 1993;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the Act for a further period of six months from 31st May, 1994.

[No. S-11017/10/81-D. I(A)]
S. S. PRASHER, Under Secy.

नई दिल्ली, 1 जून, 1994

का. आ. 1403.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि सोकहित में ऐसा करना अपेक्षित था औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (६) के उपबंधों के अनुसरण में भारत सरकार के थम मंत्रालय की अधिसूचना संख्या का.आ. 2878 दिनांक 6 दिसम्बर, 1993 द्वारा लौह अग्रस्क खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 8 दिसम्बर, 1993 से छः मास की कालावधि के लिए लोक उपयोगी मेवा घोषित किया था;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए चाहाया जाना अपेक्षित है,

अब: अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (६) के उपबंध (6) के परन्तु क्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 8 जून, 1994 से छः मास की और कालावधि के लिए लोक उपयोगी मेवा घोषित करनी है :

[मंडवा एस-11017/12/85-शी-1(ए)]
एस० एस० पराणार, अवर सचिव

New Delhi, the 1st June, 1994

1403.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause

(vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2878 dated the 6 Dec. 93, the iron ore mining industry to be public utility service for the purposes of the said Act, for a period of six months, from the 8th December, 1993.

And, whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act, for a further period of six months from the 8th June, 1994.

[No. S-11017/12/85-D.I (A)]
S. S. PRASHER, Under Secy.

नई दिल्ली, 2 जून, 1994

का. आ. 1404.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि सोकहित में ऐसा करना अपेक्षित है कि इंडिया गवर्नमेंट मिट, नोट्स को, जो औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को प्रथम अनुसूची में निर्दिष्ट है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी मेवा घोषित किया जाए,

अतः अब औद्योगिक विवाद अधिनियम, 1947 की धारा 2 के खण्ड (६) के उपबंध (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए नकाल अभाव से छः मास की कालावधि के लिए लोक उपयोगी मेवा घोषित करनी है।

[मंडवा—एस-11017/1/94—प्राई आर(पी एल)]

एस० एस० पराणार, अवर सचिव

New Delhi, the 2nd June, 1994

S.O. 1404.—Whereas the Central Government is satisfied that the public interest requires that the India Government Mint, NODIA which is specified in the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months:

[No. S-11017/1/94-IR(PL.)]
S. S. PRASHER, Under Secy.